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ABSTRACT

Five million people in the United States are under the supervision of the criminal justice system, 1.5 million in prisons or jails, the rest on probation or parole, and the inmate population continues to grow. Taxpayers spend billions of dollars each year on prisons and jails, yet the solution to crime problems remains elusive. To assist in understanding the complexities of the criminal justice issue, this booklet contains the following chapters: (1) "The Prison Boom" describing the magnitude and consequences of prison population growth; (2) "The Cost of Incarceration" analyzing costs of prison construction and operation; (3) "Who Goes to Prison" describing America's incarcerated population; (4) "Why Inmate Populations Are Up" analyzing factors that have caused the prison population to rise so steadily; (5) "Drugs, Crime, and Imprisonment" providing an overview of the U.S. drug problem and impact of anti-drug policies on law enforcement, the courts and prisons; (6) "A Continuum of Sanctions" illustrating the range of sanctions available to punish, supervise, and treat offenders; (7) "What the Public Thinks" reporting the findings of research that examines society's view on sentencing policies; and (8) "Resources" providing a list of experts who can give further information on criminal justice issues. Contains a total of 205 references. (JBJ)

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SEEKING JUSTICE

CRIME AND PUNISHMENT IN AMERICA

THE PRISON BOOM

THE COST OF INCARCERATION

WHO GOES TO PRISON

WHY INMATE POPULATIONS ARE UP

DRUGS, CRIME AND IMPRISONMENT

ALTERNATIVE SANCTIONS

WHAT THE PUBLIC THINKS

RESOURCES

1995

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There are 1.5 million people behind bars in the United States, and the inmate population continues to grow. Taxpayers spend billions of dollars each year on prisons and jails, yet the solution to the crime problem remains elusive. What caused this crisis, and how can we best allocate our criminal justice dollars?

INTRODUCTION

America's first prison was built by the Quakers at the end of the Eighteenth Century. They viewed incarceration of lawbreakers as a humane alternative to the two options used at the time—corporal and capital punishment. Through work, Bible study and penitence, offenders in prison would be rehabilitated and returned to society.

Now, 200 years later, 5 million people in the United States are under the supervision of the criminal justice system, 1.5 million in prisons or jails, the rest on probation or parole.[1] If it continues to increase, this number will soon rival the 6 million enrolled in the nation's higher education system. Billions of taxpayers' dollars are spent each year to support the burgeoning corrections industry, and yet crime and the uncertainty of what to do with those who commit crime, remains. The problem is vexing and persistent.

Government leaders, eager to display toughness and determination before an increasingly apprehensive voting public, have led an unprecedented binge in prison construction. While prison is a necessary component of a well-balanced criminal justice system, this emerging prison-industrial complex demands a growing proportion of tax revenues at all governmental levels, forcing states and localities to make tradeoffs between prisons and education or other services.

Across the country, prisoners are filling local, state and federal facilities in record numbers. Every week, 1,602 new prison beds are needed, creating a demand for more and more prisons to be built.[2] On any given day in 1994, some 1.5 million men and women were behind bars in federal, state and county prisons and jails throughout the United States.[3] The combined local, state and federal budgets to secure the country's inmate population was $24.9 billion in 1990[4] and reportedly reached $31.2 billion by 1992.[5]

Some policymakers cite increased incarceration as the reason why homicide rates and some other crimes have declined in several U.S. cities in recent years. But criminal justice experts contend that the cause is not so clear. Incarcerating offenders keeps them from committing more crimes while behind bars, but changes in policing, drug use and demographics may have an even larger impact on overall crime rates.

For all the spending on incarceration, the public and political leadership have found the solution to crime elusive. And a compelling fact remains: each year, an estimated 400,000 individuals are discharged from state and federal prisons and return to the community.[6] Some successfully manage the transition back into society, but many do not, and the criminal justice system does little to prepare offenders to make the adjustment. The rehabilitation sought by the Quakers has been largely cast aside for what some say are more realistic goals today—incapacitation, retribution and deterrence.

To assist in understanding the complexities of the criminal justice issue, this booklet takes a detailed look at the who, what, when, where, why and how of crime and punishment in America. It aims to provide clear factual information and resources that can assist policymakers, stakeholders, members of the media and others interested in a safe, fair and affordable criminal justice system.

SOURCES

1. Bureau of Justice Statistics, "Prisoners in 1994," 1995.
2. Bureau of Justice Statistics, "Prisoners in 1994," 1995.
3. Bureau of Justice Statistics, "Prisoners in 1994," 1995; and "Jails and Jail Inmates, 1993-94," 1995.
4. Bureau of Justice Statistics, "Justice Expenditure and Employment," 1990.
5. Sam Vincent Meddis and Deborah Sharp, "As Spending Soars, So Do the Profits," *USA Today*, December 13, 1994.
6. Bureau of Justice Statistics, *National Corrections Reporting Program, 1992*, October 1994.

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1 THE PRISON BOOM

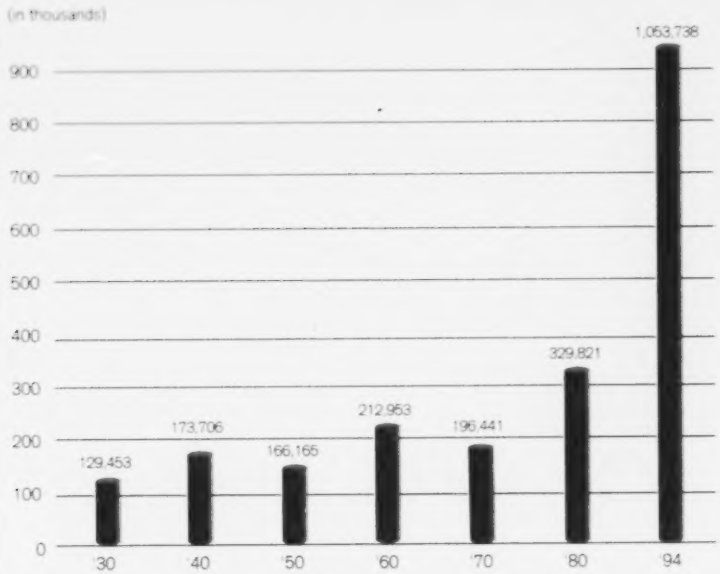
MYTH

Locking up more offenders for longer periods of time will significantly reduce the crime rate.

FACT

In recent years, the U.S. criminal justice system has responded to the public's fear of crime by locking up more offenders for longer periods of time. This practice has not been correlated with a significant reduction in crime rates. In fact, states that incarcerate the most offenders continue to have the highest crime rates and those that lock up the fewest have the lowest crime rates. Obviously, offenders who are in prison cannot commit more crimes while incarcerated. Longer and more certain prison sentences, however, have not proven to be a successful deterrent to crime. In Delaware, for example, mandatory minimum sentences for drug offenses were instituted in 1989, and to date, despite a 45 percent increase in felony drug offenders behind bars, no reduction in illicit drug activity in that state has been realized.[1] Given current fiscal realities and the costs associated with maintaining large inmate populations, this "lock-'em-up-longer" strategy, when employed indiscriminantly with offenders regardless of their crimes or threat to public safety, is an extraordinarily expensive one upon which to base correctional and sentencing policy.

UNITED STATES FEDERAL AND STATE PRISON POPULATION, 1930–1994



Note: Figures do not account for persons in county jails, which, in 1994, totaled nearly one-half million.

Source: Bureau of Justice Statistics

Political demands for quick and enduring fixes to crime have fueled exponential growth in incarceration rates in the United States. The federal and state prison population, which stood at 129,453 in 1930, took almost five decades to double; by 1980, it reached 329,821. Then the population almost tripled to 883,656 by 1992.[2] By the end of 1994, 1,053,738 men and women were incarcerated in state and federal prisons, and almost 500,000 were in county jails.[3] And the numbers continue to rise.

Many of those entering the system in the last decade were new faces caught in a major, long-term crackdown on drugs. Others, however, were the familiar faces of repeat offenders or parole violators serving lengthy sentences often imposed by increasingly tough legislative mandates.

The U.S. ranks among the top three industrialized nations for incarcerating its citizens. The Sentencing Project, a Washington-based policy institute, reported that the U.S. had 519 men and women behind bars in 1993 for every 100,000 residents, up 22 percent from 1989. At the same time, Russia had 558 prisoners per 100,000, and South Africa (while still under apartheid) had 368 per 100,000 residents. In comparison: Poland had 160 incarcerated individuals per 100,000 residents; Canada, 116; Mexico, 97; England and Wales, 93; France, 84; Germany, 80; and Japan, 36.[4]

More offenders enter our prisons each week than existing cells can hold. In 1994, the increase in inmates created the need for 1,602 new prison beds nationwide each week.[5] Overcrowded prisons and jails have become the norm in many jurisdictions; in 1992, one out of every four jails in the United States was under court order to reduce crowding.[6]

At the beginning of 1995, 39 states, the District of Columbia, the U.S. Virgin Islands and Puerto Rico were under court orders to correct overcrowding and/or unconstitutional conditions.[7] California prisons, for example, housed 120,000 inmates in 1994 in facilities designed for 66,000; furthermore, the state's new "three-strikes-and-you're-out" law is expected to swell the ranks to 211,000 by 1999.[8]

The federal prison system was 25 percent over its rated capacity in 1994,[9] and the Department of Justice projects that the federal inmate population, which jumped from 24,000 in 1980 to 95,000 in 1994,[10] will reach 130,000 by the year 2000.[11]

In many prisons throughout the country, inmates are double-bunked in small cells designed for one or forced to sleep on mattresses in unheated prison gyms, day rooms, hallways or basements. Others sleep in makeshift trailers, tents or converted ferries. Space that had once been devoted to work, study and recreational programs is being turned into dormitories.

Overcrowding also contributes to the spread of disease, including tuberculosis, a particular concern given its multiple drug-resistant strains.

HANDLING GROWTH

Most states have dealt with the increasing number of inmates by building more prisons or stretching the capacity of existing facilities. The Criminal Justice Institute, a research organization that publishes the *Corrections Yearbook*, reported that as of January 1994, federal and state governments were in the process of constructing

78 new prisons and expanding an additional 78 prisons, altogether adding 86,117 new beds at a cost of $1.8 billion. At the same time, an additional 115,062 beds were in the planning stages by federal and state jurisdictions.[12]

States also have tried to avoid lawsuits and manage growing inmate populations with other strategies. Some, for example, have instituted early release programs or keep state prisoners in city and county jails. Others have developed a variety of nonincarcerative alternatives to supervise, control and punish nonviolent offenders in the community.

EARLY RELEASE

The promise of early release has been used both as an inducement to encourage better behavior among inmates and as a relief valve to lighten pressure when the inmate population grows too quickly. "Good time" exemplifies a frequently used approach that reduces prison terms in return for good behavior and successful participation in work, school or counseling programs. The other use of early release, however, is designed simply to free up prison space—a strategy that, if not carefully devised, could risk discharging violent offenders who many feel should still be incarcerated. Early release has been considered necessary in some states when policies to imprison low-level offenders under mandatory sentences have led to severe overcrowding. In a small number of high profile situations, however, the gamble has backfired when offenders who were released early committed new crimes, provoking public outcries for legislative safeguards.

Recent congressional initiatives aim at pressuring states to keep offenders behind bars for at least 85 percent of their maximum sentences. States that fail to comply with these federal restrictions are ineligible for certain funds for prison construction.[13]

JAIL BACKUPS

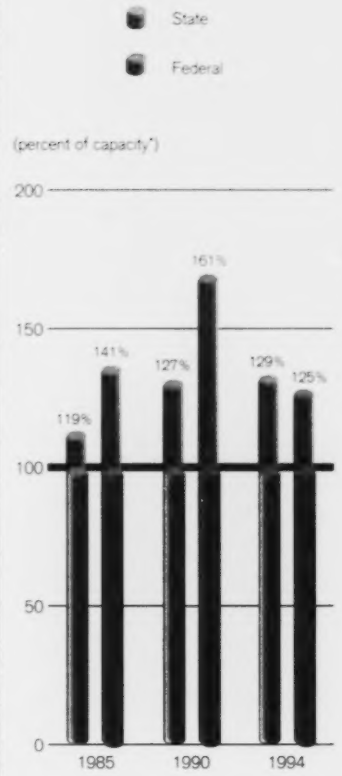
States with overcrowded prisons often force offenders with prison sentences to remain in local jails, which in most states are designed to hold offenders awaiting trial and misdemeanants serving sentences of a year or less. In most jurisdictions, jails, intended to be short-term detention facilities, lack any special programs or recreational space and function simply as holding pens.

Currently 21 states house prisoners in local jails because there is no room left in state prisons. During 1994, approximately 50,000 inmates, about 5 percent of all state prisoners, were held in local jails or other facilities due to overcrowding.[14] In some instances, the expenses were also shifted from state to local governments.

The crowding of the nation's prisons has a trickle-down effect. When state prison inmates take up too much room in local jails, sheriffs and police chiefs may run out of space for new arrestees. In Springfield, Massachusetts, for example, Sheriff Michael Ashe decided that his jail—built to house 279 people but holding 450 in 1989—was too crowded. Citing imminent danger of breach of peace, Ashe forcibly seized a National Guard armory to house the overflow.[15]

Crowding in jails creates the same pressure-cooker effect it does in prisons. Officials worry that inmate rioting will be more likely to occur and harder to control, posing threats not only to the inmates but to correctional officers and other prison staff.

OVERCROWDING IN STATE AND FEDERAL PRISONS



* There are three measures of capacity: rated, operational and design. Rated capacity is the number of beds assigned to institutions by rating officials; operational capacity is the number of inmates that a facility's staff, programs, and services can accommodate; and design capacity is the number of inmates that planners intended for the facility. State overcrowding in the above chart is based on the lowest capacity of the three capacities reported. Federal overcrowding is based on rated capacity.

Note: Rated capacity of federal prisons increased by approximately 31,500 beds between 1990 and 1994. Federal overcrowding does not include numbers of federal prisoners being held in state and local prisons or jails. State overcrowding does not include inmates held in local jails.

Source: Bureau of Justice Statistics and Federal Bureau of Prisons.

PAROLE AND PROBATION EXPANSION

Parole and probation caseloads are also expanding rapidly. In 1980, 1.1 million adults were serving probation sentences, and 220,000 were on parole. By 1993, probation populations had grown by 154 percent to more than 2.8 million adults, while parole populations increased 205 percent to 671,000.[16]

According to the Bureau of Justice Statistics, probation authorities were responsible for 58 percent of the people under some form of correctional supervision nationwide in 1993. Parole authorities were responsible for 14 percent of the offender population; prisons and jails, 28 percent.[17]

Although effective probation and parole programs require less financial support than prison, as probation and parole populations climb, resources to supervise these offenders are increasingly stretched. Probation and parole agencies receive little more than 10 percent of state and local government correctional expenditures, even though their officers supervise more than two-thirds of all convicted offenders. Probation and parole budgets are declining relative to other components of the criminal justice system.[18]

The average probation/parole officer's caseload, according to the *Corrections Yearbook*, was 118 in January 1994.[19] In Los Angeles County, which has the largest probation department in the country, the current figure is considerably higher. Three-quarters of adult probationers are under the supervision of two-member teams that handle 2,000 offenders each.[20]

A RANGE OF PUNISHMENTS

To manage their growing offender populations, state and local officials have been expanding the range of criminal sanctions that go beyond the traditional sentences of incarceration or probation. Intermediate punishments, also referred to as alternative sanctions or community corrections because they are administered outside prison walls and generally in the offender's community, provide judges with an expanded menu of sentencing options.

Intermediate punishment programs are sometimes administered by probation departments, but often are run by nonprofit organizations and community service agencies. The punishments are more severe than traditional probation but less restrictive and less costly than imprisonment. They frequently require participation in drug or alcohol treatment as well as restitution and community service.

Intermediate punishments usually are employed with offenders considered low-risk or nonviolent. Currently, they are used to manage a relatively small number of the nation's offender population and have not yet had a significant impact on prison growth. But they are becoming more prevalent.

About half the states have adopted legislation authorizing community corrections programs, and many more have created a variety of intermediate punishments without establishing the framework of a community corrections act. At present, however, there is no systematic way of counting the number of cases in which such punishments are used.

SOURCES

1 J.P. O'Connell, "Throwing Away the Key (and State Money)," *Spectrum*, Winter 1995.

2 Bureau of Justice Statistics, *Historical Corrections Statistics in the United States, 1850–1984*, December 1986; and "Prisoners in 1993," 1994.

3 Bureau of Justice Statistics, "Prisoners in 1994," 1995.

4 Marc Mauer, "Americans Behind Bars: The International Use of Incarceration, 1992–93," The Sentencing Project, September 1994.

5 Bureau of Justice Statistics, "Prisoners in 1994," 1995.

6 Bureau of Justice Statistics, "Jail and Jail Inmates, 1993–94," April 1995.

7 National Prison Project, "Status Report: State Prisons and the Courts," January 1995.

8 California Legislative Analyst's Office, "Accommodating Prison Population Growth," January 6, 1995.

9 Bureau of Justice Statistics, "Prisoners in 1994," 1995.

10 Bureau of Justice Statistics, "State and Federal Prison Population Tops One Million," October 27, 1994; and "Prisoners in 1994," 1995.

11 Department of Justice, "An Analysis of Non-Violent Drug Offenders with Minimal Criminal Histories," February 4, 1994.

12 Criminal Justice Institute, *The Corrections Yearbook: Adult Corrections 1994*, 1994.

13 Violent Crime Control and Law Enforcement Act of 1994.

14 Bureau of Justice Statistics, "Prisoners in 1994," 1995.

15 Susannah Pugh, "Ashe Seizes Armory for Jail; Uncertain 'Jailers' on Guard," *Springfield Union News*, February 17, 1990.

16 Bureau of Justice Statistics, Press Release, "Probation and Parole Populations Reach New Highs," September 11, 1994.

17 Bureau of Justice Statistics, Press Release, "Probation and Parole Populations Reach New Highs," September 11, 1994.

18 Bureau of Justice Statistics, "Justice Expenditure and Employment, 1990," September 1992.

19 Criminal Justice Institute, *The Corrections Yearbook: Probation and Parole 1994*, 1994.

20 American Probation and Parole Association.

THE COST OF INCARCERATION

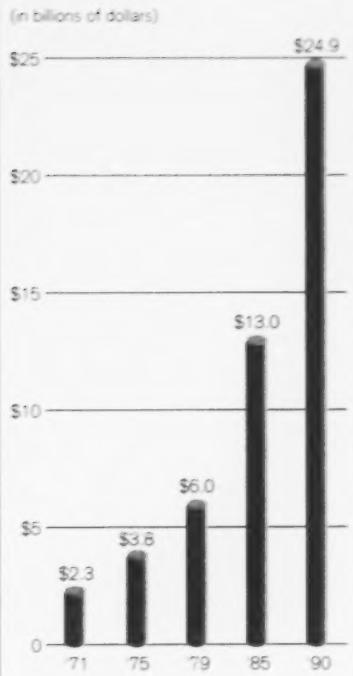
MYTH

The high cost of incarceration is a result of amenities provided to inmates such as cable television, law libraries and weight-lifting equipment. Some politicians claim that eliminating these "country club" add-ons will make prison costs more reasonable.

FACT

Actually, four out of every five dollars of prison operating costs go for employee salaries and facility maintenance.[1] On top of that, debt service to finance prison construction triples the original cost of building prison beds. A maximum security bed in New York State, for example, costs about $100,000 to build, but financing costs add another $200,000.[2] Finally, costs have grown substantially due to the health care needs of an increasingly aging and AIDS-afflicted inmate population.

THE COSTS OF CORRECTIONS



Note: Spending includes outlays for prison construction, maintenance, operation and related costs, including those for probation and parole.

Source: Bureau of Justice Statistics.

In the constantly changing economy of the United States, criminal justice is a growth industry. An emerging "corrections-industrial complex" thrives on the billions of dollars flowing from public treasuries to private contractors specializing in designing, constructing and equipping prisons. In economically depressed areas, local legislators lobby to get job-producing correctional facilities located in their districts and in a few communities, prisons have even been built on speculation. Increasingly, state and local governments are contracting with private companies to build and/or operate prisons and jails.

Nationwide, spending on corrections has been escalating at double-digit rates, rising from $2.3 billion in 1971 to $24.9 billion in 1990, the latest year for which Department of Justice statistics are available.[1] These figures represent construction, operations, maintenance and related costs, according to the Bureau of Justice Statistics. *USA Today* reported that by 1992 the total cost reached $31.2 billion, including $2.4 billion in federal spending, $18.4 billion from the states and $10.4 billion from local jurisdictions.[4]

A maximum security bed costs an average of $80,000 to build.[5] Debt service to finance construction comes close to tripling the original investment.[6] And on top of all that are the ongoing operational costs—for inmate food, clothing and health care, but more significantly for corrections personnel, maintenance, utilities and insurance—which total, on average, $19,500 a year per bed.[7]

Nationally, corrections spending has eclipsed Medicaid as the fastest growing item in state budgets. In fiscal year 1995, state governments projected an 8 percent increase nationwide in corrections spending, while Medicaid was growing at 4.9 percent. In contrast, spending on higher education was projected to increase 4.3 percent and Aid to Families with Dependent Children was estimated to grow 2.1 percent.[8] For the first time ever, in its 1996 budget the state of California planned to spend more on corrections than on its widely acclaimed system of higher education.[9]

CONSTRUCTION COSTS

State and local governments have tried to keep pace with the demand for new cells by embarking on huge construction programs. For example:

- In fiscal year 1995, state and federal governments allocated $5.1 billion for the construction of new prison space.[10] Additionally, federal legislation enacted in 1994 earmarked $7.9 billion to aid prison construction.[11]
- The cost of construction without financing charges averages $28,194 per minimum security bed, $58,509 per medium security bed and $80,004 per maximum security bed.[12]

HIDDEN CONSTRUCTION COSTS

Financing and debt servicing costs boost the price tag on prisons. Because these costs are seldom factored into construction budgets, the total cost is higher than most people realize. Just as home owners pay two or three times the purchase price before paying off home mortgages, states do the same thing when they finance prisons by issuing long-term bonds.

- California voters approved five general obligation bonds for prison construction between 1982 and 1990, amounting to $2.4 billion. With interest, the total cost to taxpayers will be $4.1 billion, or $130.57 for each of the state's 31.4 million residents.[13] In addition, the state legislature approved the sale of $2.9 billion in lease revenue bonds for prison construction, which will total $5.6 billion with interest.[14]
- In New York State, 33,458 prison beds have been constructed since 1983, financed by bonds. When interest rates are factored in, the total cost to taxpayers for construction costs alone over the next 30 years will average $180,000 per bed, or almost $6 billion, according to the Correctional Association of New York.[15]
- The cost of building one maximum security bed in New York State is about $100,000, but with financing charges, the cost rises to about $300,000.[16]

OPERATING COSTS

In October 1990, the entire criminal justice system employed 1.7 million people nationwide including law enforcement and court personnel; 555,813 were working in corrections (including probation and parole) with a total monthly payroll of almost $1.3 billion. The Bureau of Justice Statistics reported that from 1984 to 1990 the number of corrections personnel increased by 69.7 percent.[17]

Employee salaries and maintenance absorb about 80 percent of all prison operating expenses.[18] Other costs, such as utilities, insurance and inmate health care push operating expenses higher. In fiscal year 1992, states spent approximately $19,500 a year per inmate to run state prisons.[19]

Operating costs for corrections systems are growing beyond the reach of many state budgets. Connecticut, Florida, Maine, Illinois and Michigan were unable to open newly built facilities because they could not afford to pay operating costs, according to results of a 1992 survey published in the *Corrections Compendium*.[20] Five other states had to delay openings or were using less than half of available space in new prisons.

In 1994, South Carolina completed construction of two prisons of 1,130 beds each but had no funds to operate them. One opened in 1995, but the other remained vacant at a cost of $200,000 a year for maintenance and security to keep people out.[21]

Each new prison represents a commitment by government to support operating and maintenance expenses for many years. The Criminal Justice Institute reported that operational costs for state and federal prisons totaled $19.5 billion in 1994 alone.[22]

George Camp of the Criminal Justice Institute has calculated that, as a general rule, " For every million [that states] spend on building prisons, they will need as much over three years to run them."

Between 1987 and 1993, state spending increases for corrections outpaced higher education by 41 percent nationwide.

HIDDEN OPERATING COSTS

Many prison expenses are paid for by state agencies other than the corrections department. Education and mental health agencies, for example, provide services that are important in the treatment of offenders, yet push up the real costs of prison operations.

The cost of health care is also rising because of the growth in the number of older inmates and prisoners with AIDS and tuberculosis.

- The incidence of AIDS among prisoners is 20 times higher than the national average.[23] In New York, about 14 percent of the inmates were HIV positive in 1992.[24]
- Crowded conditions have made prisons and jails a major breeding ground for drug-resistant tuberculosis. In 1991, New York City was required by federal court order to build 84 communicable disease cells at a cost of $450,000 each for offenders with tuberculosis.[25] California reported in 1994 that 25 percent of its inmates were tuberculosis carriers.[26]
- Recent legislation such as "three-strikes" bills, coupled with other mandatory sentencing laws, produces a growing number of elderly inmates, a group that needs increasing medical attention. In 1992, state prisons held 5,606 inmates over the age of 54 and 532 inmates over age 75.[27]
- The annual estimated cost of housing an inmate over the age of 60 is $69,000, over three times the norm, due in large part to higher health care costs associated with older inmates.[28]

OTHER INDIRECT COSTS

Building and operating prisons means diverting funds that could otherwise be allocated to prevention of crime, intermediate punishments or other societal needs such as health care, job training, education and needed capital improvements on roads, bridges and water systems. Between 1987 and 1993, state spending increases for corrections outpaced higher

education by 41 percent nationwide.[29]

Furthermore, incarceration may leave families without wage earners and caretakers, reducing tax revenues and placing additional demands on public support systems. Children whose mothers are incarcerated are often placed in foster care at an additional expense to taxpayers; and men who are in prison cannot pay child support.

PRIVATE PRISONS

The sustained growth in incarceration levels has led to the growth of private corporations that operate prisons and jails. Private operators contend they can run prisons more efficiently and at less cost than public agencies.

The impetus for these developments began in 1979 when the Immigration and Naturalization Service contracted with private firms to detain illegal immigrants.[30] By 1994, privately managed prisons were operating in 13 states; 36 states permitted them.[31] Inmates in these prisons represented just 2 percent of the total inmate population nationally, although the *Wall Street Journal* reported in 1994 that the number of inmates in privately run prisons was growing at four times the rate of the general prison population.[32]

The Corrections Corporation of America (CCA), a private contractor based in Nashville, began contracting with state and local governments to operate prison and jail systems in the mid-1980s.[33] Now, CCA is the largest private prison contractor, operating 27 facilities in the U.S. with 15,000 inmates.[34]

COSTS VERSUS BENEFITS

Some policy analysts argue that incarceration is an effective way to reduce crime and therefore to reduce the cost of crime to victims and society. To support this argument, they often rely on reports from prison inmates about their own criminal behavior patterns. These reports are used to estimate the average number of crimes per inmate and the cost to victims; the figures are then used to determine the cost of crimes that could be prevented by imprisoning more offenders.

If, the argument goes, the average offender stole five lawnmowers a year and each lawnmower was worth $300, imprisoning that offender would prevent $1,500 in criminal damages. If people hired neighborhood watchmen to prevent lawnmower theft, those costs would be factored into the equation, as would the cost of police, courts and prosecutors.

When the cost of avoided criminal activity is higher than the cost of a prison bed, society reaps a net financial benefit by imprisoning an offender. Recent studies show conflicting results on the cost-effectiveness of imprisonment. Some experts argue that the substantial cost of crimes committed exceeds the costs of prison confinement; others contend that prison is cost effective for serious offenders, but not for those who could be well supervised in the community without jeopardizing public safety.

In 1994, South Carolina completed construction of two prisons of 1,130 beds each but had no funds to operate them. One opened in 1995, but the other remained vacant at a cost of $200,000 a year to keep people out.

SOURCES

1 Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics—1993*, 1994.

2 Correctional Association of New York.

3 Bureau of Justice Statistics, "Expenditure and Employment, 1990," September 1992.

4 Sam Vincent Meddis and Deborah Sharp, "As Spending Soars, So Do the Profits," *USA Today*, December 13, 1994.

5 Criminal Justice Institute, *The Corrections Yearbook: Adult Corrections 1994*, 1994.

6 John Irwin and James Austin, "It's About Time," National Council on Crime and Delinquency, 1987.

7 "Infatuation with Incarceration," *Postsecondary Education Opportunity*, October 1994.

8 National Conference of State Legislatures, *State Budget Actions 1994*, November 1994.

9 Fox Butterfield, "Prisons Cast Shadow Over Higher Education," *New York Times*, April 12, 1995.

10 CEGA Services, Inc., "Reported Construction Costs Surpass $5.1 Billion," *Corrections Compendium*, May 1994.

11 Violent Crime Control and Law Enforcement Act of 1994.

12 Criminal Justice Institute, *The Corrections Yearbook: Adult Corrections 1994*, 1994.

13 Dan Morain, "Long Term Investments," *Los Angeles Times*, October 16, 1994.

14 Dan Morain, "Long Term Investments," *Los Angeles Times*, October 16, 1994.

15 Correctional Association of New York.

16 Correctional Association of New York.

17 Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics—1993*, 1994.

18 Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics—1993*, 1994.

19 "Infatuation with Incarceration," *Postsecondary Education Opportunity*, October 1994.

20 CEGA Services, Inc. *Corrections Compendium*, 1992.

21 Edward Walsh, "Strapped Small Towns Try to Lock up Prisons," *Washington Post*, December 24, 1994.

22 Criminal Justice Institute, *The Corrections Yearbook: Adult Corrections 1994*, 1994.

23 Osborne Association, "AIDS in Prison Fact Sheet: United States," 1994.

24 Osborne Association, "AIDS in Prison Fact Sheet: New York State," 1994.

25 Osborne Association.

26 Dan Morain, "California's Prison Budget: Why is it so Voracious?" *Los Angeles Times*, October 19, 1994.

27 CEGA Services, Inc., *Corrections Compendium*, 1992.

28 Philip G. Zimbardo, "Transforming California's Prisons into Expensive Old Age Homes: Enormous Hidden Costs and Consequences for California's Taxpayers," Center for Juvenile and Criminal Justice, November 1994.

29 Laurel Shaper Walters, "Anticrime Wave Shackles State Educational Spending," *Christian Science Monitor*, February 1995.

30 Douglas C. McDonald, "Public Imprisonment by Private Means," in *Prisons in Context*, edited by Roy D. King and Mike Maguire, Oxford, 1994.

31 Tom Ferraro, "Crime Bill is a Boon for Private Prison Industry," *Philadelphia Inquirer*, September 4, 1994.

32 Paulette Thomas, "Making Crime Pay," *Wall Street Journal*, May 12, 1994.

33 Douglas C. McDonald, "Public Imprisonment by Private Means," in *Prisons in Context*, edited by Roy D. King and Mike Maguire, Oxford, 1994.

34 Sam Vincent Meddis and Deborah Sharp, "As Spending Soars, So Do the Profits," *USA Today*, December 13, 1994.

3 WHO GOES TO PRISON

MYTH

Six percent of America's criminals commit 70 percent of all violent crimes. Thus, we could better control crime if we simply locked up that six percent.

FACT

This well-publicized statistic, often used to justify calls for increased incarceration, comes from a misinterpretation of two studies focusing on criminal activities of boys born in Philadelphia in 1945 and in 1958. Dr. Marvin Wolfgang of the University of Pennsylvania found that six percent of all the boys born in Philadelphia in 1945—not just those who had already committed crimes—were responsible for over half of the serious crimes committed by the entire group. Of those born in 1958, 7.5 percent committed 69 percent of the serious crimes. Thus, those who cite this widely quoted myth erroneously focus on six percent of *criminals*—as if future high-rate offenders could be predicted—instead of six percent of all male children born in a given year whose future criminal behavior is also not predictable. In addition, this study focused on children born in 1945 and 1958. But, by the late 1990s, the wider availability of guns to young people, the spread of the drug trade and the recruitment of young people into that industry, changes in family structure, and other factors suggest that crime patterns are likely to be different among today's youths.[1]

Demographic characteristics of the typical prison inmate:[2]

AGE

The median age of state prisoners is 30.

SEX

Men make up 94 percent of the national prison population, but the number of female inmates has been expanding rapidly. Between 1980 and 1994, the number of women in prison grew by 386 percent, compared to the 214 percent increase in incarcerated men.[3] Moreover, two-thirds of female state prisoners are mothers of children under the age of 18; of those children, only one out of four is taken care of by their father.

EDUCATION

It is estimated that 50 to 75 percent of all state prison inmates are unable to read.[4] Only one-third of prisoners nationwide have completed high school. By contrast, of the general population, 85 percent of all men ages 20 to 29 have high school diplomas.

EMPLOYMENT

While roughly 80 percent of all U.S. men of working age are employed full-time, only 55 percent of state prison inmates were working full-time at the time of their arrest.

INCOME

More than half of all prison and jail inmates had a reported annual income of less than $10,000 prior to their arrest.

FAMILIES

Thirty-seven percent of state prison inmates reported that at least one family member had been incarcerated at some time: 7 percent said a parent had served time in jail or prison, 31 percent said their brother had been incarcerated and 4 percent said a sister had been in prison or jail.

CRIMINAL HISTORY

The cycle of crime can begin at an early age, and many offenders pass repeatedly through the juvenile and adult criminal justice systems. Eighty-one percent of all state prisoners have criminal histories that include previous incarceration or probation.

RACE/ETHNICITY

African-American men go to prison at a far greater rate than any other racial group. In 1993, while African-Americans comprised 12 percent of the U.S. population, they constituted 44 percent of sentenced inmates in state and federal correctional institutions, the largest group behind bars. Whites, while 74 percent of the general population, accounted for 36 percent of state and federal inmates; and Hispanics, who comprise 10 percent of the population, were 18 percent of those behind prison bars. When Hispanic African-Americans and non-Hispanic African-Americans are combined they constitute 50 percent of the state and federal prison population.[5]

RACIAL IMPACT

An estimated 1,471 African-Americans per 100,000 African-American residents were incarcerated in the nation's prisons at the end of 1993, compared to 207 whites per 100,000 white residents.[6] This is an incarceration ratio of African-Americans to whites of seven to one.

Numerous socio-economic factors contribute to this disparity, as do certain criminal justice policies. Jerome E. McElroy, executive director of the New York City Criminal Justice Agency, observes: "The war on drugs translates into greatly expanded arrests, convictions and punishment of street level dealers, especially those trafficking crack who tend to operate openly in large urban neighborhoods, which makes them more likely to be caught in local police sweeps. These policy, strategic and tactical decisions make inevitable the disproportionate impact of the criminal justice system on poor, urban, minority populations."

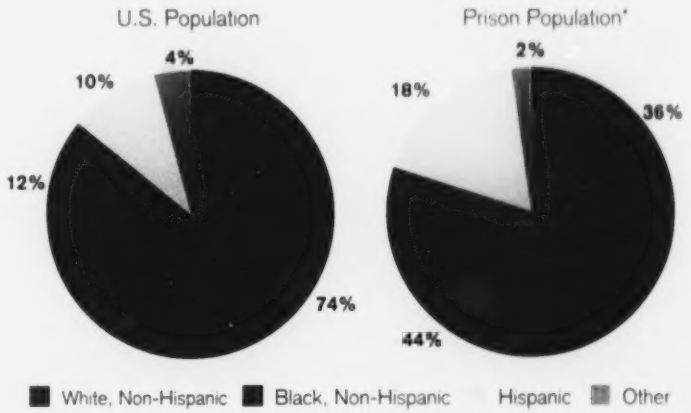
The following statistics further illustrate the disproportionate impact on African-Americans:

- Of all felons convicted in 1992, 52 percent were white, 47 percent were African-American and 1 percent was of another race, according to the U.S. Bureau of Justice Statistics.[7] (Hispanics are included in both African-American and white groups.)
- A 1990 report by The Sentencing Project found that on any given day in 1989, nearly one in four African-American men ages 20 to 29 was under the supervision of the criminal justice system—in prison or jail or on probation or parole.[8]
- Studies by the National Center on Institutions and Alternatives revealed even more dramatic numbers in two urban areas with large concentrations of African-

Americans. In 1991, in Baltimore, 56 percent of African-American men between the ages of 18 and 35 were imprisoned, on probation or parole, awaiting disposition on criminal charges or being sought on an arrest warrant.[9] In Washington, D.C., 42 percent of the same group were involved with the criminal justice system.[10]

- African-Americans are also more likely to be victims of violent crime than whites. In 1992, violent crime victimization rates for African-American males were 75 percent higher than those for white males.[11]
- The U.S. Sentencing Commission reported in 1995 that 88 percent of offenders sentenced for crack offenses are African-Americans and 4.1 percent, white.[12] Sentences for selling a certain amount of crack are equal in length to sentences for selling 100 times that amount of powdered cocaine. If crack and powdered cocaine were treated similarly, the average sentence for convicted crack traffickers would be 47 months, as opposed to 141 months.[13]

UNITED STATES POPULATION AND PRISON POPULATION, BY RACE, 1993



Note: Other includes Asians, Pacific Islanders, American Indians, and Alaska Natives
*Prison population reflects all sentenced state and federal inmates.

TYPES OF OFFENSES

According to the Bureau of Justice Statistics, less than one-third of state prison admissions in 1992 were for violent offenses.[14] In fact, most maximum security prison systems report that less than 20 percent of their inmates require high-level security.

The Bureau of Justice Statistics' National Corrections Reporting Program divides criminal offenses into the following categories:[15]

VIOLENT OFFENSES

Crimes involving personal injury and theft of property by confrontational force or threat of force: murder/nonnegligent manslaughter, rape, kidnaping, aggravated assault and robbery. Offenders who were convicted of violent crimes comprised 27.1 percent of all state prison admissions in 1992. The median sentence for persons convicted of homicide in 1992 was 24 years, and for rape, nine years.[16]

PROPERTY OFFENSES

Burglary (breaking and entering), larceny (theft) without force, motor vehicle theft, illegal entry, fraud, vandalism, association with stolen property and arson. Of offenders sentenced to state prison in 1992, 34.1 percent were for property offenses. The median sentence for persons convicted of larceny in 1992 was three years.[17]

VIOLENT VS. NONVIOLENT CRIME:

Crimes Committed by Offenders Admitted to State Prisons in 1992

Source: Bureau of Justice Statistics

DRUG ABUSE VIOLATIONS

Unlawful possession or trafficking of narcotic drugs. Drug abuse violators comprised 29.2 percent of state prison admissions in 1992. Drug crimes are being prosecuted at increasing rates. The number of persons incarcerated in federal prisons for drug crimes rose from 9,491 in 1985 to 46,499 in 1994.[18]

PUBLIC-ORDER OFFENSES

A set of offenses against the rules of governing social order: prostitution, other sex offenses, bribery, gambling and carrying or possessing weapons. Offenders convicted of public order infractions totaled 8.1 percent of state prison admissions in 1992.

OTHER

Of offenders sentenced to state prison in 1992, 1.5 percent committed other crimes: juvenile offenses and unspecified felonies.

DISPOSITION OF CASES

Most felony cases never go to trial. Only 7.5 percent of all felonies were disposed of by trial, according to a recent study of state courts. The majority of cases, 57 percent, were disposed of by plea bargaining, in which a defendant may be promised a specific sentence for pleading guilty, usually to a charge less severe than the original. For example, in exchange for a guilty plea, a prosecutor might agree to charge a man arrested for robbery (a crime for which the average prison sentence is six years) with theft of property instead (for which the average penalty is two to three years). Of the balance of the felony cases, more than half were dismissed, and the rest were disposed of through some other means, including changes of venues and deaths of defendants.[19]

Without plea bargaining, conviction rates would probably decline because prosecutors often agree to reduced plea agreements when their cases are weak. Even more certain is the fact that our current court system would break down without plea bargaining. If every criminal defendant opted for a jury trial, as guaranteed by law in most cases, we would not have enough prosecutors, judges, juries or courts to provide those trials; and the costs would be exorbitant. When confronted with the dramatically increased stakes under new "three-strikes" laws, defendants are expected to be less likely to forgo their right to trial by jury.

The disposition of cases also is affected by whether defendants can afford legal counsel. Those who cannot are appointed a lawyer or are represented by a public defender, many of whom carry large caseloads. Some private defense attorneys can often devote significantly more resources to each case than public defenders or court appointed lawyers, a fact that may sometimes contribute to disparity in the disposition of the cases of poor defendants compared to wealthier ones.

SOURCES

1 Marc Mauer, "Politics, Crime Control and ... Baseball?" *Criminal Justice*, Fall 1994.

2 All data in the overview from Bureau of Justice Statistics, "Survey of State Prison Inmates, 1991," March 1993, unless otherwise noted.

3 Bureau of Justice Statistics, "Prisoners in 1994," 1995.

4 Richard Tewksbury, "Literacy Programming for Jail Inmates: Reflections and Recommendations From One Program," *The Prison Journal*, December 1994.

5 Bureau of Justice Statistics, "Prisoners in 1994," 1995; Bureau of the Census.

6 Bureau of Justice Statistics, "Prisoners in 1994," 1995.

7 Bureau of Justice Statistics, "Felony Sentences in State Courts, 1992," January 1995.

8 Marc Mauer, "Young Black Men and the Criminal Justice System: A Growing National Problem," The Sentencing Project, February 1990.

9 Jerome Miller, "Hobbling a Generation: Young African American Males in the Criminal Justice System of America's Cities: Baltimore, Maryland," National Center on Institutions and Alternatives, 1992.

10 Jerome Miller, "Hobbling a Generation: Young African American Males in Washington D.C.'s Criminal Justice System," National Center on Institutions and Alternatives, 1992.

11 Bureau of Justice Statistics, "Criminal Victimization in the United States, 1992," October 1993.

12 U.S. Sentencing Commission, *Cocaine and Federal Sentencing Policy*, February 1995.

13 Bureau of Justice Statistics, "Sentencing in the Federal Courts: Does Race Matter?" December 1993.

14 Bureau of Justice Statistics, *National Corrections Reporting Program 1992*, October 1994.

15 All data in following description from: Bureau of Justice Statistics, *National Corrections Reporting Program 1992*, October 1994.

16 Bureau of Justice Statistics, "Felony Sentences in State Courts, 1992," January 1995.

17 Bureau of Justice Statistics, "Felony Sentences in State Courts, 1992," January 1995.

18 Federal Bureau of Prisons.

19 B. Ostrom and N. Kander, "Examining the Work of State Courts, 1993: A National Perspective for the Court Statistics Project," National Center for State Courts, 1995.

WHY INMATE POPULATIONS ARE UP

MYTH

Prisons have a revolving door, and inmates are now serving far shorter prison terms than before.

FACT

Since 1923, the average prison term served by inmates in the U.S. has remained constant at about two years. State prisoners are still serving average sentences of two years in length. Federal inmates, however, have been serving longer sentences since the passage of the Sentencing Reform Act of 1984 and the adoption of mandatory sentencing laws. The Act introduced truth in sentencing into federal courts, which mandates that offenders serve a minimum of 85 percent of their sentences. For example, inmates convicted of a violent offense who were released from federal prisons in 1992 served average terms of 56 months, compared to 50 months served by violent offenders released in 1986. Federal drug offenders released in 1992 served an average of 33 months, compared to 22 months served by those released in 1986.[1]

For the better part of this century, incarceration rates remained relatively constant. Then a dramatic change began in the 1970s, when huge increases in inmate populations were recorded across the country. Clearly, policy changes aimed at taking a bite out of crime—largely in response to the public's fear of violence and the "war on drugs"—were what drove the influx of new inmates.

The phrase of the day became "lock 'em up and throw away the key." This attitude, coupled with large increases in spending on law enforcement, mandatory sentencing laws and more and longer sentences, especially for drug offenses, led to larger prison populations.

It is extremely difficult to draw a connection between increases in incarceration and fluctuating crime rates. Putting offenders behind bars may keep them from committing more crimes while they are there, but no significant overall deterrent effect has yet been proven. Furthermore, some experts believe that factors such as shifting demographics—into and out of the crime-prone years—changing patterns of drug use and the drug trade, and changes in police tactics may have an even greater influence on crime rates.

THE CRIME RATE AND PUBLIC FEAR

Fear of crime, rather than rising crime itself, is one factor that has fueled the nation's rising incarceration rates. Interpretation of crime statistics is complex, however, and conflicting inferences can be drawn from the data.

Crime rates are calculated in two ways. The National Crime Victimization Survey (NCVS), conducted by the U.S. Bureau of the Census, gathers information from a sample of households and businesses, asking respondents whether they have been victims of crime over the past year. According to this survey, the rate of violent crime—rape, robbery and assault (murder and manslaughter obviously cannot be self-reported)—went down by 3.6 percent from 1980 to 1992. The rate of property crime against households—burglary and larceny—dropped by 33.1 percent over the 12-year period. The rate of property crime against individuals—theft without force or threat of force—declined by 28.7 percent.[2]

The second widely used measure of crime is the Uniform Crime Reports (UCR), compiled by the Federal Bureau of Investigation from crimes reported to or by the police. Unlike NCVS, UCR makes no distinction between crimes against individuals and crimes against households. These reports indicate that the rate of violent crime—including murder/non-negligent manslaughter, rape, robbery and aggravated assault—increased by 27 percent between 1980 and 1992.[3]

Almost all of this increase is in the category of aggravated assault, which involves serious injury and includes all assaults or threats of injury with a deadly or dangerous weapon. Many criminologists attribute this increase to changes in reporting and not necessarily to higher levels of crime.

The rate of property crime—burglary, theft and auto theft—decreased by 8.4 percent over the 1980–92 period as measured by the UCR.[4]

The National Academy of Sciences Panel on the Understanding and Control of Violent Behavior concluded that greater gun availability leads to an increase in the percent of murders and felonies where guns are used, but does not affect general violence levels. In 1989, some 12,000 people—60 percent of all murder victims in the U.S.—were killed with firearms, and another 70,000 were injured. The risk is especially acute for teenagers and young adults, particularly minorities. The firearm murder rate in 1989 for black males ages 15 to 19 was 105.3 per 100,000 compared to 9.7 per 100,000 for whites in the same age group.[5]

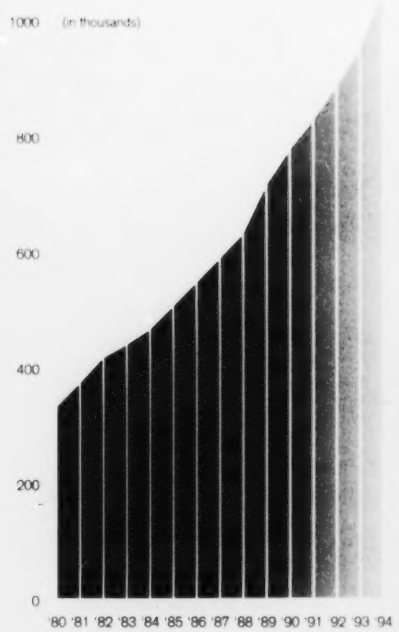
While more murders are being committed with firearms, the murder rate in the U.S., which ranks very high when compared to other industrialized nations, has not fluctuated very much at all in the past two decades. The murder rate in 1993, the last year for which national figures are available, was 9.9 per 100,000 people. This rate is slightly higher than the rate of 9.4 in 1973 and lower than the 1980 rate of 10.2.[6]

Neither the NCVS nor the UCR focus on crimes such as drug possession and trafficking. Yet arrests involving some aspect of illegal drug possession or sales increased by 126 percent from 1980 to 1992;[7] this may be largely due to changes in enforcement priorities, rather than an increase in the number of drug crimes.

Other factors, such as demographics, also complicate the interpretation of crime statistics. Criminologists James Q. Wilson and Richard Herrnstein, authors of *Crime and Human Nature*, argue that "criminal behavior depends as much or more on age as any other demographic characteristic." Almost 60 percent of the people who were arrested and charged with crimes in 1993, for example, were between the ages of 13 and 29.[8] Because the young are high-rate offenders, changes in the proportion of the population that falls within this age group will have an impact on the national crime rate.

Wilson and Herrnstein explain: "Shifts toward a more youthful population, such as during the 'baby boom' years after World War II, would be

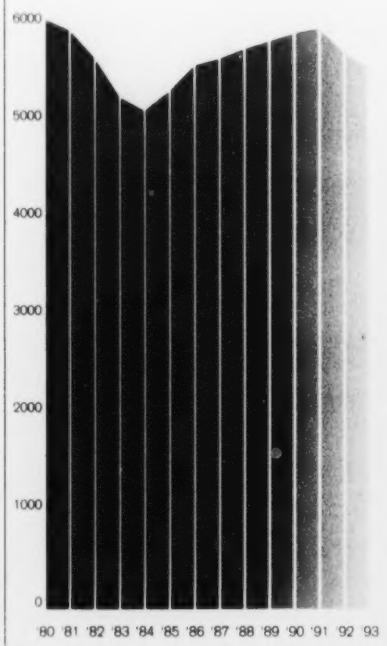
STATE AND FEDERAL PRISON POPULATION, 1980–1994



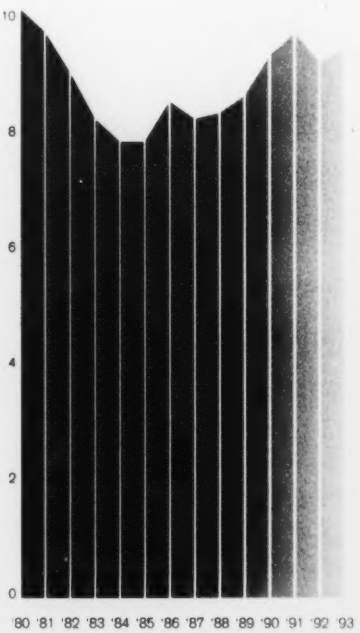
Source: Bureau of Justice Statistics

CRIME RATES IN THE UNITED STATES, 1980–1993

Number of Incidents per 100,000 People



ALL CRIMES



MURDERS

Source: Federal Bureau of Investigation

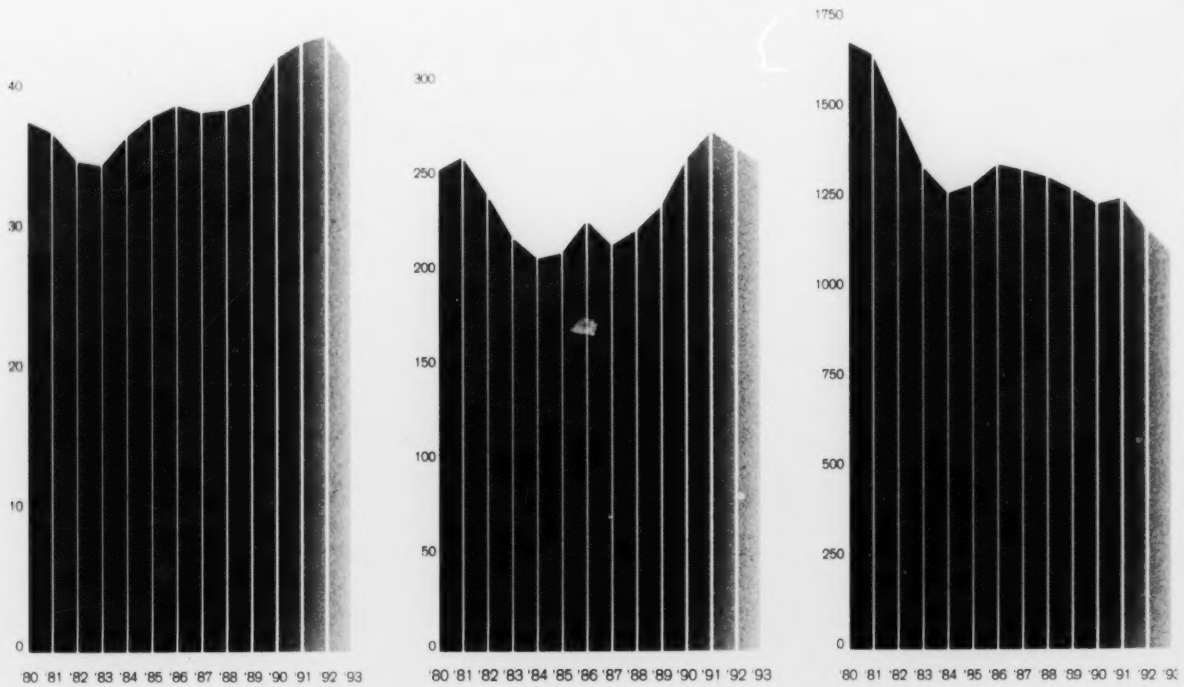
expected to produce increasing crime rates as the babies grew into adolescence." Current projections indicate there will be a 25 percent increase in the number of teens in the 15 to 19 age range by the year 2005.[9]

A final challenge to understanding crime statistics is that crime rates generally do not rise or fall steadily. Snapshots of trends can be misleading. For example, according to the UCR, the overall crime rate decreased by 2.2 percent from 1980 to 1990, but data from the same source indicate that the overall crime rate increased by 11.8 percent from 1985 to 1990.[10]

Some policy analysts who draw primarily on NCVS data argue that recent declines in the country's crime rate are the result of increases in our imprisonment rate. They maintain that increases in incarceration have caused decreases in the crime rate. But government crime reports are sometimes contradictory, and depending on the reporting techniques, the offense and the time frames selected, it is possible to draw varied conclusions about the impact of the policy decisions of the past decade. In fact, when viewed graphically, historic changes in rates for particular offenses and the increase in incarceration show there is no clear-cut relationship between imprisonment and crime rates.

One factor contributing to the atmosphere in which public policy is made is media coverage of crime. A study by the Center for Media and Public Affairs found that even though crime rates had remained essentially unchanged between 1992 and 1993, television coverage of crime and violence on the evening news doubled during this period.[11]

Policymakers maintain that they have taken a hard line against lawbreakers in response to the public's fear of crime, although public opinion surveys do not always support this argument. The public and corrections officials agree on the need to imprison violent offenders. However, when citizens are informed about possible alternatives, they often favor a range of sanctions for nonviolent offenders. The findings of a number of public opinion studies have encouraged leaders around the country to take a closer look at alternatives to incarceration. (See Chapter 7, *What the Public Thinks*)



RAPES ROBBERIES BURGLARIES

MANDATORY SENTENCING

Mandatory sentencing laws require prison terms for certain offenses, and most stipulate a minimum number of years the offender must serve behind bars. Such laws have had an enormous impact on prison populations nationwide, as these examples illustrate:

- All 50 states have established mandatory sentencing laws covering a range of crimes, including violent and gun-related crimes, drug offenses, drunk driving and property theft.[12]
- Thirty-four states have "habitual offender" laws requiring enhanced prison terms for repeat felony offenders, in some cases regardless of the seriousness of the crime.[13]
- Alabama has a two-year minimum sentence for drug sales; five years are added to this sentence if the sale is made within three miles of a school or housing project, and an additional five years is imposed if it occurs within three miles of both. This means an offender could receive a 12-year sentence for selling any amount of drugs almost anywhere in an urban area such as Birmingham.

Such mandatory sentencing laws deny judges their traditional powers of discretion. Judges cannot reduce the term for offenses that carry prescribed mandatory minimum sentences, and they are restricted from imposing alternative sentences no matter what mitigating circumstances may be involved. In theory, lawmakers enact mandatory sentencing laws so that punishments will be meted out consistently; in practice, however, mandatory sentencing policies have enhanced the significance of the discretionary power of prosecutors who decide what charges to file against defendants.

- A 1994 study by the Department of Justice found that more than one-third of all federal prisoners incarcerated under mandatory laws for drug offenses were considered low-level offenders. These low-level offenders constituted 21 percent of the overall federal prison population.[14]
- Recent research indicates that mandatory sentencing laws have either short-lived or no deterrent effects. A 1992 study of mandatory drug sentencing laws in Delaware showed a significant rise in the prison population, but no reduction in drug arrests, trafficking, or use.[15]

• According to a 1991 U.S. Sentencing Commission study, "A greater proportion of black defendants received sentences at or above the indicated mandatory minimum (67.7 percent), followed by Hispanics (57.1 percent) and whites (54 percent)."[16]

Legislators who pass mandatory laws often do not realize that the decision to increase the penalty for a crime is also a decision to spend millions of additional dollars on corrections. But some legislators are beginning to examine the financial consequences of sentencing laws. In Louisiana, each mandatory sentencing bill must be accompanied by an impact statement that assesses how the bill would affect plea bargaining, jury trials, the prison population and the corrections budget. Such an impact statement allows legislators to make informed judgements about the costs and other effects of a proposed law.

In response to growing concern about the impact of mandatory sentencing, Congress included a "safety valve" provision in the 1994 crime bill to give federal judges greater discretion in sentencing drug offenders who have minor criminal records and no history of violence.[17]

"THREE STRIKES AND YOU'RE OUT" LAWS

Public concern with violent crime has led to citizens' initiatives and legislation in many states for lengthy mandatory sentences, including policies to lock up three-time felons for life without parole. By the end of 1994, 14 states and the federal government had adopted some form of "three strikes and you're out" law.

Georgia went further and implemented a "two strikes" law. And California's "three strikes" law has a twist: it provides for doubling of sentences on a second felony conviction.[18]

The expected impact of these laws varies from state to state, depending on how broadly the statutes are written and how they are to be implemented. Much of the impact on prisons won't be seen for 10 to 15 years because most of the offenders sentenced under these provisions would have received lengthy prison terms under prior laws.

In the state of Washington, where such legislation was first passed in 1993, the initial year of the law's implementation resulted in only three dozen prosecutions for a third strike.[19]

In contrast, California is expecting huge increases in its prison population as a result of its "three strikes" law, which requires a sentence of 25 years to life upon conviction of a third felony. California's prisons held 125,000 inmates in January 1995. By 1999, primarily due to the impact of the "three strikes" law, the inmate population is expected to grow to 211,000. While the first two offenses must be violent or serious to implement the law, the third strike can be one of 500 felonies.[20]

Furthermore, since many "third-strike" law defendants feel they have nothing to lose by going to trial, there is far less plea bargaining, resulting in a sharp increase in trial rates; estimates range from 144 percent in Los Angeles County to almost 200 percent in Santa Clara County in the first full year of implementation. The increased caseload is diverting court resources from civil cases. In Los Angeles County, it is expected that 60 of the 120 judges handling civil cases will be transferred to criminal cases.[21]

The Legislative Analyst's Office in California reports that during the first eight months of the law's implementation, in 70 percent of cases under the "three strikes" law, the final strike involved a nonviolent offense.[22] For example, Jerry Williams of Redondo Beach, California was convicted of a third strike for stealing a slice of pizza. Because the 27-year-old had two prior robbery convictions, he was sentenced to 25 years to life under the new law.[23]

LONGER PRISON TERMS

Since 1923, the average prison term served nationwide has been about two years, though the length of the average sentence imposed and prison time served varies from state to state.[24] In recent years, however, with the adoption of "truth in sentencing" practices, the length of sentences served by inmates in some states, and particularly by inmates in the federal system, has been increasing.

• Federal drug offenders released in 1992 had served terms 54 percent longer than those of federal drug offenders released in 1985.[25]

• Nationally, inmates released from prison in 1990 had served an average of 22 months, but offenders admitted to prison that year were expected to serve 25 months behind bars, a 14 percent increase.[26]

Many people feel, however, that offenders are serving a lower percentage of their sentence. But reports claiming that prisons now have "revolving doors" and that offenders stay behind bars for shorter and shorter periods are misleading. The figures quoted for average length of stay in prisons are, by definition, for inmates who are released and, therefore, include proportionally fewer inmates serving long sentences. Also as prisons become overcrowded, authorities release inmates with less serious crimes and shorter sentences, often in significant numbers. These early release mechanisms can further skew data on the average length of incarceration.

THE AGING INMATE POPULATION

Longer sentences have had some unexpected results. "The long sentences being handed down are building a large number of geriatrics into the penal system," says Anthony Travisono, former executive director of the American Correctional Association. Older inmates are one of the fastest growing segments of the prison population.

- Largely due to the impact of the "three strikes" law in California, it is estimated that within ten years, the number of inmates in the state prison system over age 50 will increase from about 5,000 to 51,000. By the year 2020, it is projected that fully 20 percent of the state's prison population will be over age 50.[27]
- In 1992, state prisons held 5,606 inmates over the age of 54, a 20.6 percent increase since 1988, and 532 inmates over 75 years of age.[28]

care and maintenance per inmate over 60 is $69,000, three times the norm.[29]

ANTI-DRUG EFFORTS

The nation's war on drugs is a major cause of the increase in our prison population. Almost two-thirds of the $12 billion annual federal anti-drug budget is spent on law enforcement, pulling thousands of drug offenders into the criminal justice system each year.[30] Furthermore, the federal anti-drug budget is just a fraction of state and local anti-drug spending on both law enforcement and criminal justice.

According to the Bureau of Justice Statistics:

- The number of adults in prison nationwide for drug offenses more than tripled from 1986 to 1991.[31]
- Between 1980 and 1994, the number of drug offenders incarcerated in federal prisons rose from 4,749 to 46,499.[32]
- In 1994, 61 percent of all offenders in federal prison were convicted of drug crimes, compared with 45 percent in 1988 and 25 percent in 1980.[33]
- The increase in prisoners sentenced for drug offenses accounted for almost half of the growth of new commitments to state prisons from 1980 to 1992.[34] Many of these inmates are not powerful drug dealers, but low-level drug offenders who sell small quantities of drugs on the street in order to support their own drug habit.
- Offenders convicted of drug crimes are also serving longer sentences. For example, the average time served by drug offenders sentenced to federal prison rose from 22 months in 1986 to almost 33 months by 1992.[35]

Since 1980, much of the growth in the prison population has resulted from a doubling of the number of arrests for drug law violations and a tripling of the rate of incarceration for convicted drug offenders.[36]

SEX OFFENDERS

Increased prosecution and conviction of sex offenders, as well as longer and harsher sentences, have contributed significantly to prison population growth.

From 1988 to 1992, state and federal prisons experienced a 37 percent increase in admissions of sex offenders.

Since 1980, much of the growth in the prison population has resulted from a doubling of the number of arrests for drug law violations and a tripling of the rate of incarceration for convicted drug offenders.

With many more inmates growing old in prison due to the nationwide trend toward longer sentences, corrections officials face a new set of challenges. To accommodate an older population, they must provide long-term health care, wheelchair accessible facilities and menus to fit special diets. The estimated average annual expense of medical

The *Corrections Compendium* reported that in 1988 state and federal prisons held some 62,000 sex offenders, which comprised 9.8 percent of the inmate population. In 1992, these facilities had 98,000 sex offenders, accounting for 11.5 percent of the overall population. California, with 16,000 inmates convicted of sex offenses, had

the largest group, and North Dakota, with 93, the smallest.[37]

The actual crimes span a wide range of behaviors, including the most violent sexual assaults, rape and child molestation, as well as consensual acts, such as statutory rape, and non-contact offenses such as exhibitionism. While some of these offenders are violent and need to be incarcerated, legislative mandates and judicial decisions often have resulted in longer sentences for all sex-related crimes.

New York Governor George E. Pataki signed an executive order in the spring of 1995 to prohibit all sex offenders from participating in new, highly intensive probation programs for non-violent felons.[38]

Earlier, Washington State adopted its ground breaking "sexual predator" law which provides for indefinite confinement of child molesters and rapists deemed too dangerous for release at the end of their court imposed sentences. New Jersey, Wisconsin and Kansas have adopted similar laws.[39]

THE MENTALLY ILL

Local jails, and to some extent prisons, also have been affected by the rising number of people released from facilities for the mentally ill who are now in custody for minor criminal offenses. In his book *Nowhere to Go: The Tragic Odyssey of the Mentally Ill*, psychiatrist E. Fuller Torrey writes that in 1988 there were 100,000 people in jails who required treatment for serious mental illnesses. According to the National Coalition for the Mentally Ill in the Criminal Justice System, there are about 33 percent more mentally ill individuals in jails than in mental hospitals.[40] In addition, 60 percent of those in the juvenile justice system have a diagnosable mental health problem.[41] A recent California study found that 8 percent of the state prison population had one of four major mental disorders; an additional 17 percent had less severe but serious mental illnesses.[42]

"Jails have become the dumping ground for the mentally ill," Ray Coleman, former president of the American Jail Association, told members of Congress at a briefing in January 1991. "Mentally ill individuals sometimes spend three to four months in jail without a trial for a misdemeanor such as a 'dine-and-dash,' sometimes while judges try without success to get them into a treatment situation. If they were not mentally ill, they'd be released on [their own] recognizance. These individuals are seriously ill. They are not serious criminals."

TOUGH PAROLE POLICIES

Most states have parole boards that may exercise discretionary authority to release prisoners to community supervision after they have served their minimum sentence, for example, eight years of an eight-to-twelve-year sentence. (If inmates serve their maximum term, they are generally released to the community without control or supervision of any kind.) Some states offer time off the minimum for good behavior, further reducing the prison term. But parole boards throughout the country have tightened release criteria, often in response to political pressure. Inmates who would have been paroled in the past are now being held for longer terms, thus contributing to prison growth.

In Virginia, the 1993 gubernatorial campaign was waged and won by George Allen who promised to abolish parole, a pledge that was later made into a state policy. Along with other changes made in the state, this policy is expected to contribute to a doubling of the prison population in ten years as prisoners serve longer sentences. By 1995, 11 states had abolished parole.[43]

In recent years, parolees have been returned to prison in record numbers for violating the conditions of their parole. Violators who test positive for drugs, for example, or who leave town without permission or fail to report to their parole officer often are reincarcerated instead of facing increased supervision in the community or receiving drug treatment, job training or other services to help them comply with their release conditions.

- According to a 1995 report, 40 percent of all parolees in California are returned to prison for technical violations of parole.[44]
- Nationally, from 1980 to 1991, the number of parole violators who were returned to prison quadrupled, increasing from 28,800 to 142,100.[45]
- A study of all prison admissions in 1987, conducted by the National Council on Crime and Delinquency, showed that 15 percent of admissions were for technical violations of parole conditions such as failure to participate in programs, evidence of drug use, or noncompliance with curfews.[46]
- From 1987 to 1991, Oregon tracked parolees being released for the first time and observed that over periods of three years, they were returned to prison at rates ranging from 38.9 percent to 46.7 percent. Approximately half of these were returned for technical violations of parole.[47]

TRUTH IN SENTENCING

Truth in sentencing practices have been enacted by states in response to public

concern that offenders are often released before their full sentences have been served. The concern is fueled, in part, by the public's misunderstanding of parole release, which gives the impression that offenders are being released from supervision early. In fact, judges establish their sentences knowing that they probably will not be served entirely behind bars but recognizing the importance in many cases of supervising offenders during the initial periods of re-entry to society. In some instances, however, inmates have been released early to make room for other prisoners since space and resources are becoming increasingly scarce, especially when states are under court order to limit prison population growth.

Truth in sentencing usually mandates that the actual sentence served by the inmate is a substantial percentage, often 85 percent, of the maximum time imposed by the sentencing judge. That is a considerable increase from the average 48 percent of a sentence that violent offenders served in 1992.[15]

In adopting truth in sentencing, policymakers must come to grips with the politically sensitive issue of adjusting the lengths of prison sentences or face explosive growth from significantly longer sentences. For example, without truth in sentencing an offender sentenced to four years for burglary might expect to serve less than half that sentence and then be released on parole. Under truth in sentencing practices, however, that offender would be required to serve perhaps 85 percent of the sentence imposed, or 3.4 years in this case.

The phrase "truth in sentencing" is sometimes used more generically to refer to consistency in sentencing as promoted by sentencing guidelines, which are discussed below.

A POSSIBLE RESPONSE: SENTENCING GUIDELINES

Sentencing guidelines are another tool for implementing sentencing policy with an emphasis on making punishments for particular crimes more certain. This concept grew out of a general perception that sentencing practices were inconsistent, that the same or similar crimes could result in vastly different punishments. Guidelines set forth clear and uniform standards for punishment that take into consideration the offender's prior criminal record as well as the gravity of the offense and permit a measure of judicial discretion in atypical cases. Punishments include prison, as well as noncustodial penalties. By 1994, guidelines were in use in 14 states and the federal courts.

Guidelines are drafted by or for legislative bodies and generally reflect the philosophical and political leanings of elected officials. Experience with sentencing guidelines demonstrates that these mechanisms can lead to less or more imprisonment. They simply ensure that whatever policies are chosen by the drafters will be followed by judges fairly closely.

Where policymakers have incorporated into their guidelines concerns about the growth of inmate populations, states have done a better job of controlling prison growth than in states where this concern has gone unaddressed. In 1993, North Carolina adopted sentencing guidelines, one goal of which was to control the growth of its prison population. The guidelines target low-risk offenders for community-based punishments where appropriate and ensure that prison space is available for violent offenders. Federal sentencing guidelines, adopted in 1988, on the other hand, do not take prison capacity into consideration and have contributed to the increase in federal inmates.

According to the National Coalition for the Mentally Ill in the Criminal Justice System, there are about 33 percent more mentally ill individuals in jails than in mental hospitals.

MINNESOTA SENTENCING GUIDELINES GRID

Presumptive Prison Sentence Lengths in Months

LESS SERIOUS ← → MORE SERIOUS

SEVERITY OF OFFENSE (Illustrative Offenses)	CRIMINAL HISTORY SCORE 0	1	2	3	4	5	6 or more
Sale of simulated controlled substance	12*	12*	12*	13	15	17	19 *18-20*
Theft Related Crimes ($2500 or less) Check Forgery ($200-$2500)	12*	13*	15	17	17	19	21 *20-22*
Theft Crimes ($2500 or less)	13*	15	15	17	19 *18-20*	22 *21-23*	25 *24-26*
Nonresidential Burglary Theft Crimes (over $2500)	12*	15	18	21	25 *24-26*	32 *30-34*	41 *37-45*
Residential Burglary Simple Robbery	18	23	27	30 *29-31*	38 *36-40*	46 *43-49*	54 *50-58*
Criminal Sexual Conduct 2nd Degree	21	26	30	34 *33-35*	44 *42-46*	54 *50-58*	65 *60-70*
Aggravated Robbery	48 *44-52*	58 *54-62*	68 *64-72*	78 *74-82*	88 *84-92*	98 *94-102*	108 *104-112*
Criminal Sexual Conduct, 1st Degree Assault, 1st Degree	86 *81-91*	98 *93-103*	110 *105-115*	122 *117-127*	134 *129-139*	146 *141-151*	158 *153-163*
Murder, 3rd Degree Murder, 2nd Degree (felony murder)	150 *144-156*	165 *159-171*	180 *174-186*	195 *189-201*	210 *204-216*	225 *219-231*	240 *234-246*
Murder, 2nd Degree (with intent)	306 *299-313*	326 *319-333*	346 *339-353*	366 *359-373*	386 *379-393*	406 *399-413*	426 *419-433*

LESS SERIOUS ↑ ↓ MORE SERIOUS

At the discretion of the judge, up to a year in jail and/or other non-jail sanctions can be imposed instead of prison sentences as conditions of probation for most of these offenses. If prison is imposed, the presumptive sentence is the number of months shown.

Presumptive commitment to state prison for all offenses.

Notes: 1. Criminal history score is based on offender's prior record and seriousness of prior offenses. 2. Numbers in italics represent the range of months within which a judge may sentence without the sentence being deemed a departure from the guidelines. 3. First degree murder is excluded from the guidelines by law and carries a mandatory life sentence.

*One year and one day

Source: Minnesota Sentencing Guidelines Commission. Effective August 1, 1994.

SOURCES

1 Bureau of Justice Statistics, "Prisoners in 1994," 1995.

2 Bureau of Justice Statistics, "Criminal Victimization in the United States, 1992," October 1993.

3 Federal Bureau of Investigation, *Uniform Crime Reports 1992*, 1993.

4 Federal Bureau of Investigation, *Uniform Crime Reports 1992*, 1993.

5 Jeffrey A. Roth, "Firearms and Violence," National Institute of Justice, February 1994.

6 Federal Bureau of Investigation, *Uniform Crime Reports 1993*, 1994; and the National Center for Health Statistics.

7 Bureau of Justice Statistics, "Drugs and Crime Facts, 1990," 1991; and "Drugs and Crime Facts, 1993," 1994.

8 Federal Bureau of Investigation, *Uniform Crime Reports 1993*, 1994; and the National Center for Health Statistics.

9 Malcolm Gladwell, "Baby Boom's Urban Cradle Braces for Future Rocked by Crime," *Washington Post*, May 26, 1994.

10 Federal Bureau of Investigation, *Uniform Crime Reports 1992*, 1993.

11 "Crime Down, Media Coverage Up," *Overcrowded Times*, April 1994.

12 National Council on Crime and Delinquency, "National Assessment of Structured Sentencing Final Report," January 1995.

13 "Why '3 Strikes and You're Out' Won't Reduce Crime," The Sentencing Project, 1994.

14 Department of Justice, "An Analysis of Non-Violent Drug Offenders with Minimal Criminal Histories," February 4, 1994.

15 John P. O'Connell, Jr., "Throwing Away the Key (and State Money)," *Spectrum*, Winter 1995.

16 U.S. Sentencing Commission, *Mandatory Minimum Penalties in the Federal Criminal Justice System*, August 1991.

17 Violent Crime Control and Law Enforcement Act of 1994.

18 Alan Karpelowitz, "Three Strikes Sentencing Legislation Update," National Conference of State Legislatures, November 1994.

19 Jack Hopkins, "Heavy Hitters Not Striking Out," *Seattle Post-Intelligencer*, December 2, 1994.

20 California Legislative Analyst's Office, "The 'Three Strikes and You're Out' Law: A Preliminary Assessment," January 6, 1995.

21 California Legislative Analyst's Office, "The 'Three Strikes and You're Out' Law: A Preliminary Assessment," January 6, 1995.

22 California Legislative Analyst's Office, "The 'Three Strikes and You're Out' Law: A Preliminary Assessment," January 6, 1995.

23 Eric Slater, "Pizza Thief Gets 25 Years to Life," *Los Angeles Times*, March 3, 1995.

24 Bureau of Justice Statistics, "Historical Corrections Statistics in the United States, 1850–1984," December 1986.

25 Bureau of Justice Statistics, "Federal Drug Case Processing, 1985–91," March 1994.

26 Bureau of Justice Statistics, *National Corrections Reporting Program 1992*, October 1994.

27 Philip G. Zimbardo, "Transforming California's Prisons into Expensive Old Age Homes: Enormous Hidden Costs and Consequences for California's Taxpayers," Center for Juvenile and Criminal Justice, November 1994.

28 Bureau of Justice Statistics, *National Corrections Reporting Program 1992*, October 1994; and CEGA Services, Inc., *Corrections Compendium*, 1992.

29 Philip G. Zimbardo, "Transforming California's Prisons into Expensive Old Age Homes: Enormous Hidden Costs and Consequences for California's Taxpayers," Center for Juvenile and Criminal Justice, November 1994.

30 Office of National Drug Control Policy, *National Drug Control Strategy 1994*, 1994.

31 Bureau of Justice Statistics, "Survey of State Prison Inmates, 1991," March 1993.

32 Federal Bureau of Prisons, Office of Research and Evaluation.

33 Federal Bureau of Prisons, Office of Research and Evaluation.

34 Bureau of Justice Statistics, "Prisoners in 1993," 1993.

35 Bureau of Justice Statistics, "Prisoners in 1994," 1995.

36 Bureau of Justice Statistics, "Drugs and Crime Facts, 1990," 1991.

37 CEGA Services, Inc., "Incarcerated Sex Offenders Total Nearly 100,000," *Corrections Compendium*, November 1993.

38 James Dao, "Pataki Bars Sexual Offenders from New Probation Program for Nonviolent Felons," *New York Times*, May 1, 1995.

39 Barry Meier, "'Sexual Predators' Finding Sentence May Last Past Jail," *New York Times*, February 27, 1995.

40 National Coalition for the Mentally Ill in the Criminal Justice System.

41 National Coalition for the Mentally Ill in the Criminal Justice System, "Responding to Mental Health Needs of Youths in the Juvenile Justice System," 1993.

42 Donald Specter, "Mentally Ill in Prison: A Cruel and Unusual Punishment," *Forum*, December 1994.

43 Peggy B. Burke, "Abolishing Parole: Why the Emperor Has No Clothes," American Probation and Parole Association and Association of Paroling Authorities International, 1995.

44 Center for Juvenile and Criminal Justice, 1995.

45 Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics—1993*, 1994.

46 James Austin and John Irwin, "Who Goes to Prison?" National Council on Crime and Delinquency, 1990.

47 Oregon Department of Corrections.

48 Bureau of Justice Statistics, "Prison Sentences and Time Served for Violence," 1995.

5 DRUGS, CRIME AND IMPRISONMENT

MYTH

Many people believe that mandatory minimum sentences for drug offenses ensure that drug "kingpins" get locked up for a substantial amount of time.

FACT

One out of every three federal prisoners incarcerated under mandatory laws for drug offenses are low-level offenders—people who sell very small quantities in order to finance their own habits. Furthermore, many drug laws encourage offenders to turn in others to get their own sentences reduced. Consequently, offenders from the upper echelons of the drug world who have more people to turn in often end up with lesser sentences.

By 1991, one in four inmates nationally was either serving time or awaiting trial for a drug offense, compared to just one in eleven inmates in 1983.

The political response to drug abuse and drug-related crime led to tougher laws and lengthy mandatory sentences beginning in the 1980s. During that decade, drug arrests doubled in number. Jail and prison populations across the country rose as a result.

Special judicial bodies, called drug courts, were established in some areas in the late 1980's to provide treatment for the seemingly endless flow of individuals brought up on drug possession charges. In the late 1980s, the public reported to pollsters that drugs were the most serious problem facing the country.

The nation's anti-drug policies have begun to overburden the criminal justice system but have had little appreciable impact on reducing the drug trade. New drug laws and stepped-up law enforcement have resulted in strained police departments, crowded court calendars and immense growth in the number of drug offenders in state and federal prisons. Adding to the burden, though not necessarily to the goal of cracking down on drug kingpins, is the fact that these laws impact large numbers of low-level offenders: non-violent individuals who have no substantial role in drug trafficking operations but who may sell small quantities of drugs in order to support their own habit. A 1994 study by the Department of Justice found that more than one-third of all federal prisoners incarcerated under mandatory drug laws fell into this category of low-level offenders.[1] Moreover, some criminologists argue that there is a "replacement phenomenon" occurring on the streets. When dealers are imprisoned, others are often recruited into the drug trade to take their places.

- The Sentencing Project reported that by 1991, one in four inmates nationally—an estimated 304,300 people—was either serving time or awaiting trial for a drug offense. This had increased from an estimated one in eleven inmates—57,975—in 1983. The estimated cost of incarceration for drug offenders alone was $6.1 billion in 1991.[2]
- In 1994, 61 percent of the inmates in the federal prison system were convicted of a drug crime.[3] It is estimated that 75 percent of the federal prison growth from 1985 to 1997 will be related solely to changes in drug sentencing policies.[4]
- The Federal Anti-drug Abuse Act of 1986 requires prison sentences for low-level carriers as well as high-volume dealers. The 1988 amendments to that act mandate sentences of life without parole for offenders convicted of selling or conspiring to sell more than five kilograms of cocaine or one kilogram of heroin and for those who have had two or more prior drug felony convictions.[5]
- By 1992, the number of state and local arrests for sale, manufacture and possession of drugs had decreased 22 percent from their 1989 peak, then increased again by 6 percent in 1993.[6]

The emphasis on law enforcement and incarceration has been coupled with a steady decline in the proportion of federal anti-drug funds earmarked for prevention and treatment.

- In fiscal year 1979, 46 percent of the $873 million federal anti-drug outlay was devoted to prevention and treatment and 54 percent to law enforcement.[7]
- In fiscal year 1995, 35 percent of the $12.7 billion federal drug budget was spent on treatment and prevention, while 65 percent went to law enforcement and interdiction.[8]

DRUGS AND RACE

Law enforcement efforts have not always been evenly applied. Federal drug officials have described the typical cocaine user as

a white male high school graduate living in a small city or suburb. The war on drugs, however, has focused largely on the poor, urban, mostly minority neighborhoods where low-level crack dealers operate openly and in ways that make them more likely to be caught in local police sweeps.

Studies of drug use patterns by the U.S. Department of Health and Human Services show that African-Americans comprise 13 percent of all drug users in the U.S.[9] The FBI reports that they make up 39 percent of those arrested for drug crimes, primarily possession.[10]

In 1990, a Minnesota judge overturned the state's anti-crack law because it discriminated against African-Americans. The law required a four-year prison term for a first-time offender convicted of possessing three grams of crack cocaine but allowed probation for defendants convicted of possessing the same amount of powdered cocaine.

The U.S. Sentencing Commission reported in 1995 that whites account for 52 percent of all crack users and African-Americans, 38 percent. However, 88 percent of those sentenced for crack offenses are African-American and just 4.1 percent, white.[11]

There are other indicators that people of color are disproportionately punished for drug offenses:

- Ninety-two percent of those arrested for drug offenses in New York State in 1989 were African-Americans or Hispanics.[12]
- The arrest rates for white juveniles charged with drug-related crimes decreased, while those for nonwhites accelerated by 20 to 25 percent a year beginning in 1985 until the rates peaked in 1989.[13]

A 1993 report by The Sentencing Project draws a comparison between the treatment of drunk drivers and drug users. Drunk drivers are responsible for an estimated 22,000 deaths annually; alcohol-related deaths overall total 94,000. Drug-related deaths in the United States, including those due to overdose and disease as well as violence related to the drug trade, total about 21,000 annually.[14]

The majority of drunk drivers are white males who, unless their crimes cause substantial harm, are generally charged as misdemeanants and typically receive sentences involving fines, license suspension, community service and alcohol treatment. Although mandatory sentences for drunk driving have been passed in many states, "they are frequently circumvented due to their potential impact on jail overcrowding," according to The Sentencing Project.[15]

People arrested for drug possession, on the other hand, tend to be low-income and African-American or Hispanic. Defendants are generally charged with felonies and frequently incarcerated. While drug treatment is considered effective in combating addiction, it is

FEDERAL INMATES CONVICTED OF DRUG CRIMES, 1980–1994

* Does not include federal inmates held in nonfederal facilities, those in the witness protection program or those awaiting sentencing.

** Numbers as of September 30, 1994.

Source: Federal Bureau of Prisons

primarily available for middle-class users, and is in short supply for low-income offenders.

- Studies by the U.S. Department of Health and Human Services concluded that while a slightly higher percentage of African-Americans and Hispanics than whites currently consume drugs (6.8 percent and 6.2 percent respectively compared to 5.5 percent), the vast majority of drug users in terms of numbers of people are white (74 percent compared to 13 percent African-Americans and 10 percent Hispanics).[16]
- In 1992, 44 percent of the felony offenders convicted of drug trafficking in state courts were white; 55 percent were African-Americans.[17]

THE IMPACT OF DRUG LAWS

Arrests for drug manufacture, possession and distribution soared over the past decade, taxing city police departments, the courts and state and federal drug enforcement agencies. This crackdown on drug-related crime, however, has had little impact on drug use and the drug trade. Casual drug use has been on the decline since before the war on drugs was declared, but hard-core cocaine use has remained unchanged since 1985. These frequent cocaine users are believed to be responsible for a disproportionate amount of drug-related crime.[18]

CONVICTIONS

During the mid-1980s, narcotics investigations and prosecutorial efforts were stepped up in jurisdictions across the country. The combination of rising numbers of cases and high conviction rates resulted in a significant increase in the proportion of convicted felons who are drug offenders.

- Drug offenders accounted for 61.4 percent of all federal prisoners in 1994, in contrast with 29.5 percent in 1984 and 25 percent in 1980.[19]
- In state courts, the number of estimated drug convictions in 1986 totaled 76,437, or 13.1 percent of all convictions. That number skyrocketed to 280,232—31.3 percent of all convictions—by 1992.[20]

MORE AND LONGER PRISON TERMS

The proliferation of mandatory sentencing laws has greatly increased the number of incarcerated drug offenders and the length of the terms they are serving. From 1986 to 1991, the number of adults in prison for drug offenses more than tripled. These prisoners accounted for 44 percent of the increase in state prison populations during this period.[21] Furthermore, the average time served for federal drug offenses rose from 21 months in 1985 to 33 months in 1992.[22]

The nation's drug laws may also result in the imprisonment of more minor dealers and addicts for longer periods of time. A study of the impact of New York's drug laws conducted by the Correctional Association of New York found that major dealers often avoid prison terms by plea bargaining their sentences in exchange for information needed by law enforcement officials. On the opposite end of the spectrum, minor dealers, lacking valuable contacts and information, have little to bargain with and frequently face mandatory minimum sentences of five years to life in prison.[23]

CRIME AND ADDICTION

The number of crimes committed by men and women while under the influence of drugs and the percentage of offenders who enter prison with drug problems also have grown. From 1986 to 1991, the percentage of inmates who were regular cocaine users went from 22 to 36 percent.[24] In addition, the National Institute of Justice found that in 1992, the number of arrestees who tested positive for drugs in a sampling of 24 major cities ranged from 47 percent in Phoenix to 78 percent in Philadelphia.[25]

In 1991, the General Accounting Office reported that there were drug treatment slots for less than 20 percent of the estimated 500,000 state prisoners who were considered to have been drug addicts at the time of arrest.[26] The federal prison system housed 27,000 prisoners who were believed to have moderate or severe addictions; only 364 of those inmates enrolled voluntarily in intensive residential treatment programs, although space was available for twice that number.[27]

DRUGS INSIDE PRISONS

Drugs have found an open road into prisons across the nation as the war against them has packed the corrections system with dealers and users. Inmates in many institutions maintain their addictions with the help of corrupt prison employees and visitors who use extreme techniques to smuggle small quantities of drugs to prisoners.

Between 1990 and 1995, 26 prison employees, ranging from guards to cooks, were charged with smuggling drugs into New York's Rikers Island jail.[28]

A report issued by the state auditor of Mississippi in February 1995 on the drug trade at the Sunflower County State Prison revealed that there was such an abundance of drugs on the inside that inmates were dealing them to people on the outside.[29]

The use of drugs in prisons largely

goes unprosecuted because the quantities found are often small relative to the amounts found on the street.

THE FALLOUT

The war on drugs is sending great numbers of drug users and sellers to prison, and statistics show disproportionate arrest and conviction rates of poor, urban residents who are relatively low-level offenders. Peter Reuter, a former director of the Drug Policy Research Center at RAND, observes, "We have been spending our constrained prison resources on offenders who represent only a moderate risk."

In the early 1990s, a downturn in arrests for drug possession, sales and manufacture began to occur in major metropolitan areas such as New York and Los Angeles. Nevertheless, many of the mandatory laws that put large numbers of minor offenders in prison for long periods are still on the books and will continue to contribute to prison growth for the foreseeable future.

Many corrections experts now believe that methods of punishment that involve out-of-prison, residential treatment could be more cost-effective in reducing drug use, even when the cost for treatment is comparable to the cost of imprisonment. Treatment costs vary considerably, as do costs of incarceration. For example, residential drug treatment in California averages $22,400 a year, compared with imprisonment with no treatment at $21,800 a year per inmate.[10] In New York State in 1993, the cost of residential drug treatment averaged $16,000, compared with $25,694 for incarceration without drug treatment.[11] (See Chapter 6, *A Continuum of Sanctions*)

SOURCES

1 Department of Justice, "An Analysis of Non-Violent Drug Offenders with Minimal Criminal Histories," February 4, 1994.

2 Cathy Shine and Marc Mauer, "Does the Punishment Fit the Crime?: Drug Users and Drunk Drivers, Questions of Race and Class," The Sentencing Project, March 1993.

3 Federal Bureau of Prisons, Office of Research and Evaluation.

4 Eric Simon, "The Impact of Drug Law Sentencing on the Federal Prison Population," *Federal Sentencing Reporter*, July/August 1993.

5 Eric Simon, "The Impact of Drug Law Sentencing on the Federal Prison Population," *Federal Sentencing Reporter*, July/August 1993.

6 Bureau of Justice Statistics, "Drugs and Crime Facts, 1993," 1994.

7 "Federal Strategy for Prevention of Drug Abuse and Drug Trafficking," 1982.

8 Office of National Drug Control Policy, *National Drug Control Strategy, Budget Summary*, February 1995.

9 Department of Health and Human Services, "Preliminary Estimates From the 1993 Household Survey on Drug Abuse," July 1994.

10 Federal Bureau of Investigation, *Uniform Crime Reports, 1993*, 1994.

11 U. S. Sentencing Commission, *Cocaine and Federal Sentencing Policy*, February 1995.

12 Correctional Association of New York, 1994.

13 Alfred Blumstein, "Making Rationality Relevant," *Criminology*, Vol. 31, No. 1, 1993.

14 Cathy Shine and Marc Mauer, "Does the Punishment Fit the Crime?: Drug Users and Drunk Drivers, Questions of Race and Class," The Sentencing Project, March 1993.

15 Cathy Shine and Marc Mauer, "Does the Punishment Fit the Crime?: Drug Users and Drunk Drivers, Questions of Race and Class," The Sentencing Project, March 1993.

16 Department of Health and Human Services, "Preliminary Estimates From the 1993 Household Survey on Drug Abuse," July 1994.

17 Bureau of Justice Statistics, "Felony Sentences in State Courts, 1992," January 1995.

18 Substance Abuse and Mental Health Service Administration, "Preliminary Estimates from the 1993 National Household Survey on Drug Abuse," July 1994.

19 Federal Bureau of Prisons, Office of Research and Evaluation.

20 Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, 1986; and *Sourcebook of Criminal Justice Statistics*, 1993.

21 Bureau of Justice Statistics, "Survey of State Prison Inmates, 1991," March 1993.

22 Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, 1986 and *Sourcebook of Criminal Justice Statistics*, 1993.

23 Tracy Huling, "Injustice Will Be Done: Women Drug Couriers and the Rockefeller Drug Laws," Correctional Association on New York, 1992.

24 Bureau of Justice Statistics, "Survey of State Prison Inmates, 1991," March 1993.

25 National Institute of Justice, "Drug Use Forecasting, 1992 Annual Report."

26 General Accounting Office, "Drug Treatment: State Prisons Face Challenges in Providing Services," September 1991.

27 General Accounting Office, "Drug Treatment: Despite New Strategy, Few Federal Inmates Receive Treatment," September, 1991.

28 Matthew Purdy, "Bars Don't Stop Flow of Drugs Into the Prisons," *New York Times*, July 2, 1995.

29 Matthew Purdy, "Bars Don't Stop Flow of Drugs Into the Prisons," *New York Times*, July 2, 1995.

30 "Intermediate Sanctions in California," *Overcrowded Times*, June 1995.

31 New York State Department of Correctional Services, "Per Capita Report," 1994.

6 A CONTINUUM OF SANCTIONS

MYTH

The only effective punishment for an offender is imprisonment.

FACT

Imprisonment punishes lawbreakers. It can also take a toll on the taxpayers who must support the construction and operation of correctional facilities. In the interest of public safety, citizens generally are willing to pay for prisons to protect society from violent offenders. But other, nonincarcerative punishments can be effective with nonviolent, low-risk offenders. Unlike prison, many of these community-based programs emphasize restitution to victims and rehabilitation of offenders. These sanctions can be demanding and restrictive, and they force offenders to be accountable for their actions. They also are generally far less expensive than prisons.

ESCALATING PUNISHMENTS TO FIT THE CRIME

This list includes generalized descriptions of many of the sentencing options that are in use in jurisdictions across the country.

PROBATION

Offender reports to probation officer periodically, depending on the offense sometimes as frequently as several times a month or as infrequently as once a year.

INTENSIVE SUPERVISION PROBATION

Offender sees probation officer three to five times a week. Probation officer also makes unscheduled visits to offender's home or workplace.

RESTITUTION AND FINES

Used alone or in conjunction with probation or intensive supervision and requires regular payments to crime victims or to the courts.

COMMUNITY SERVICE

Used alone or in conjunction with probation or intensive supervision and requires completion of set number of hours of work in and for the community.

SUBSTANCE ABUSE TREATMENT

Evaluation and referral services provided by private outside agencies and used alone or in conjunction with either simple probation or intensive supervision.

DAY REPORTING
Clients report to a central location every day where they file a daily schedule with their supervision officer showing how each hour will be spent—at work, in class, at support group meetings, etc.

HOUSE ARREST AND ELECTRONIC MONITORING
Used in conjunction with intensive supervision and restricts offender to home except when at work, school or treatment.

HALFWAY HOUSE
Residential settings for selected inmates as a supplement to probation for those completing prison programs and for some probation or parole violators. Usually coupled with community service work and/or substance abuse treatment.

BOOT CAMP
Rigorous military-style regimen for younger offenders, designed to accelerate punishment while instilling discipline, often with an educational component.

PRISONS AND JAILS
More serious offenders serve their terms at state or federal prisons, while county jails are usually designed to hold inmates for shorter periods.

An expanded range of sentencing options gives judges greater latitude to exercise discretion in selecting punishments that more closely fit the circumstances of the crime and the offender. The approach treats prisons as the backstop, rather than the backbone, of the corrections system.

Increasingly, advocates for more effective sentencing practices are calling for a range or continuum of punishment options that provides graduated levels of supervision and harshness. Simple probation is at one end, traditional incarceration at the other, and a variety of community-based sanctions, such as work release, electronic monitoring and community service, bridge the middle ground.

Using a sentencing scheme of this sort enables authorities to maintain expensive prison cells to incapacitate violent criminals. At the same time, less restrictive community-based treatment programs and restitution-focused sentences punish nonviolent offenders, while teaching them accountability for their actions and heightening their chances for rehabilitation. An expanded range of sentencing options gives judges greater latitude to exercise discretion in selecting punishments that more closely fit the circumstances of the crime and the offender. The approach treats prisons as the backstop, rather than the backbone, of the corrections system.

Intermediate sanctions are most often used for offenders who are considered nonviolent and low-risk. Such punishments usually require the offender to lead a productive life in the community by finding work, doing unpaid community service, learning new skills, paying restitution to victims, enrolling in a treatment or educational program—or all of the above.

Although 25 states have passed community corrections laws and many others have created various kinds of intermediate sanctions between probation and prison, such punishments are not yet being used for a large number of offenders in the United States.[1]

According to a national census conducted by the Bureau of Justice Statistics, there were 698,570 inmates housed in state and federal confinement facilities in 1990, yet only 17,079 offenders serving their sentence in community-based facilities that regularly permit offenders to leave the premises on work or study release, or to participate in other outside programs.[2]

COSTS OF INTERMEDIATE PUNISHMENTS

Annual costs for the various sanctions available within the continuum of intermediate punishments vary from county to county and state to state. In virtually all cases, the cost of alternative sanctions is lower than incarceration.

A 1994 survey of programs in Colorado, North Carolina, Ohio and Virginia found the following average annual costs of operations (exclusive of capital construction) per participant in these states: probation, $869; intensive supervision, $2,292; community service, $2,759; day reporting, $2,781; house arrest, $402; electronic monitoring, $2,011; halfway house, $12,494; boot camp, $23,707; jail, $14,363, and prison, $17,794.[3]

Boot camps combine the cost of incarceration with additional services such as education, job readiness skills, drug treatment and others. When economies are realized, they usually result from the shortened length of stay in boot camps—on average six months or less.

The costs of community-based sanctions are reduced further through the collection of various supervision fees from participating offenders. In federal halfway houses, for instance, offenders pay 25 percent of their gross weekly earnings to the government. The Federal Bureau of Prisons collected more than $27.4 million in such fees over a recent three-year period.[4]

To establish effective intermediate punishment programs—the kind that can be strictly enforced—jurisdictions must be prepared to make the necessary, initial financial investments. These outlays delay the realization of the cost-saving benefits but help to ensure the long-term viability of the program.

GENERAL SENTENCING OPTIONS

The administrative structure of alternative sanctions is at the discretion of the local government or courts and sometimes varies considerably among different jurisdictions. The programs can be operated, for example, by the probation departments or by private agencies which report to the courts.

The number of programs and their official titles also vary widely depending on the needs and resources of the local government. Most programs enact harsh consequences for non-compliance with the terms of the sentence, sometimes including jail or prison sentences.

The following section provides a descriptive, although not exhaustive, list of available sanctions.

BASIC PROBATION

Currently, the most widely used community-based punishment in the United States is probation, in which an offender lives at home, but receives some outside monitoring such as meeting with a supervisor a specified number of times per month or keeping a log of daily activities. First-time, nonviolent offenders often receive probation, which may last up to three years for a misdemeanor and five

years or more for a felony conviction.

- In 1993, about 58 percent of the convicted offenders under the supervision of the justice system were on some form of probation.[5]
- Approximately 2.8 million offenders were on probation in 1993, compared to 1.3 million in prisons and jails.[6]

The enormous growth of the probation population—154 percent from 1980 to 1993—has outpaced available resources.[7] Nationwide, as of 1990, probation and parole got only 11 cents of every criminal justice dollar, according to the Bureau of Justice Statistics.[8] Probation officers handle large caseloads—on average 118 per officer in 1994[9]—leaving them limited time to track or supervise offenders, let alone link them with the services many need. In a sense, basic probation offices are as crowded as prisons. Reporter Stephen Labaton wrote in the *New York Times*, "Despite the conditions in probation departments, lawmakers and federal and state officials say it is more politically attractive to seek resources for prosecutors, judges and prisons than to seem 'soft on crime' by proposing more support for probation."

A 1992 Justice Department report revealed these facts about recidivism rates of felons on probation from 1986 to 1989:

- More than half—57 percent of a random sample of 79,000 probationers—had not been rearrested within three years.[10]
- The vast majority of those who were rearrested were charged with property or public order offenses.[11]
- About 8.5 percent of the 43 percent who were rearrested were arrested for violent crimes (murder/non-negligent manslaughter, rape, robbery, or aggravated assault).[12]

Although 25 states have passed community corrections laws and many others have created various kinds of intermediate sanctions between probation and prison, such punishments are not yet being used for a large number of offenders in the United States.

INTENSIVE SUPERVISION PROBATION (ISP)

This sanction allows offenders to live at home, but under relatively severe restrictions. Offenders in ISP programs usually are required to perform community service, attend school or treatment programs, work, meet with a probation officer (or team of two officers) as often as five times a week, and submit to curfews, employment checks and tests for drug and alcohol use. In contrast to regular probation, the average caseload for these programs in 1994 was 29, according to the Criminal Justice Institute.[13]

By 1990, one or more jurisdictions in every state had implemented ISP programs, primarily for property offenders, yet the effectiveness and the cost savings from the programs have varied widely depending on how they have been structured and administered. Early evaluations of an ISP program operated by the Georgia Department of Corrections concluded that the program had both lowered recidivism rates and prison admissions.[14] But a study of 14 jurisdictions across the country, sponsored by the Department of Justice and conducted by RAND, indicated that ISP on average had not reduced the total cost of correctional services, in part because the offenders targeted for participation would not have drawn significant prison time. The study also showed that the programs generally did not reduce recidivism, but that recidivism among ISP participants was more often related to technical violations of the demanding conditions of intensive probation than to new crimes. And those technical violations were more often caught because of the increased supervision.[15]

Other evaluations have shown that some carefully designed and managed intensive supervision programs yield better-than-average results. In Florida,

for example, corrections officials found that they could spend a fraction of what it costs to send an offender to prison by imposing a community penalty instead. An evaluation of their ISP program, called the Florida Community Control Program (FCCP), concluded that graduates commit new crimes at a lower rate than a comparable group of offenders released from prison.[16]

This study, by the National Council on Crime and Delinquency, further revealed that FCCP saved the state $2,750 per offender, even after hidden costs of intensive supervision were taken into account. The first of these hidden costs is the financial burden of sanctions—usually prison or jail time—imposed on participants who violate the conditions of the program. The second is the cost of "widening the net"—providing a higher, more expensive level of supervision for offenders who probably would have been sentenced to regular probation.[17]

The study's estimate of the financial benefits of FCCP is conservative: researchers did not take into account the supervision fees paid by the offenders in the program or the victim restitution, taxes and child support paid because the offenders were able to hold down a job while participating in the program.[18]

Together, these studies suggest that reaping the full benefits of ISP requires careful targeting to assure that a substantial number of participants would have received appreciable prison time and the use of a range of responses to technical violations so as to limit the use of incarceration when violations occur.

RESTITUTION AND FINES

Monetary penalties involve either restitution, which requires the offender to compensate his or her victim; or fines, in which a set amount is paid to the courts; or both. Usually, the amount is based on the crime and, in some jurisdictions, also on the offender's ability to pay. Restitution is paid to the victim either directly or through state and federal victim compensation funds. The aim of this penalty is to compensate victims for their losses, while teaching offenders financial responsibility. Restitution and fines are sometimes coupled with another penalty, such as probation, community service or treatment.

DAY FINES

Many European countries use fines more frequently than the United States, often as the sole punishment for specific crimes. Germany, for example, has used day fines—in which the amount of the fine is determined according to the offender's daily income—as a penalty for as many as 82 percent of adult offenders.[19]

In essence, day fines attempt to equalize the financial impact of the sentence on the offender, addressing the concern that fines are unduly harsh on poor offenders and permit affluent offenders easily to buy their way out of more punitive sanctions.

The Vera Institute of Justice has been developing the day fine concept in this country. Judges in Phoenix now use FARE (Financial Assessment Related to Employability) Probation, a form of a day fine, as an alternative to traditional probation in felony cases involving low-risk offenders. Under a FARE Probation sentence, a certain number of units are assigned to a particular offense on the basis of its seriousness—30 units for credit card forgery, for example, or 160 units for a burglary. Each unit is then transferred into a dollar amount based on the offender's income. The penalty amounts have ranged from $180 for a laborer with six children convicted of making a false statement in an unemployment claim to a $22,000 fine for a restaurant owner convicted of money-laundering.[20]

VICTIM-OFFENDER MEDIATION

Restitution is sometimes coupled with victim-offender mediation programs, which have emerged in the past two decades across the United States and Europe. These programs allow victims to meet face to face with the offender in the presence of a trained mediator to negotiate a fair restitution agreement. A 1992 study, conducted by the Minnesota

"The aim of restitution is to compensate victims for their losses, while teaching offenders financial responsibility.

Citizens Council on Crime and Justice in cooperation with the University of Minnesota, reported that approximately 100 such programs exist in the United States. Surveying programs in Albuquerque, Austin, Minneapolis, St. Paul and San Francisco, researchers found that 79 percent of the victims and 87 percent of the offenders who participate expressed satisfaction with the results of the mediation process. The restitution was paid in full in 81 percent of the mediated cases, compared to 58 percent of the cases ordered by the courts without mediation. Furthermore, victims generally noted a significant reduction of personal anxiety and fear.[21]

COMMUNITY SERVICE

Community service can be used alone or with other penalties and services, including treatment for substance abuse, restitution or probation. Offenders in community service programs are usually assigned to work for government or private nonprofit agencies; they paint churches, maintain parks, collect roadside trash and renovate schools and nursing homes.

Community service programs began in 1966 in Alameda County, California, when municipal court judges decided to sentence certain traffic offenders to periods of unpaid labor. By the late 1980s, some form of community service sanction was in use in all 50 states.[22] The Bureau of Justice Statistics estimates conservatively that 6 percent of all felons nationally are sentenced to perform community service, often in conjunction with other sanctions.[23] Washington State has probably made the most extensive use of the concept; one-third of its convicted felons receive sentences that involve community service.[24]

The Vera Institute of Justice in New York City developed one of the best-monitored and evaluated community service programs in the country. Its Community Service Sentencing Project, now run by the Center for Alternative Sentencing and Employment Services (CASES), works with offenders convicted of misdemeanors who would otherwise receive jail sentences ranging from 15 days to six months. Over a two-week period, offenders perform 70 hours of supervised community service. Since the program began in 1979, approximately 18,000 offenders have participated. In fiscal year 1994, 1,809 offenders were sentenced to the program with a completion rate of 65 percent. Those who do not complete the program are resentenced following a report from CASES.[25]

SUBSTANCE ABUSE TREATMENT

Judges are often left with prison as their only sentencing option for nonviolent offenders who have substance abuse problems. Some prisons have the resources to provide the treatment services that are needed, but most do not. Intermediate sanctions, however, can couple close supervision with cost-effective treatment outside of prison.

Residential treatment costs can vary widely. In New York State in 1993, residential treatment cost an average of $16,000 compared with imprisonment at $25,695;[26] in California, residential treatment and imprisonment costs are about the same, $22,400 and $21,800, respectively.[27]

Treatment programs outside prison walls take a variety of forms and are located at different points in the justice system. A recent study by RAND concluded that drug treatment programs are seven times more cost-effective in reducing cocaine consumption than other initiatives aimed at controlling the supply of available drugs and could reduce cocaine consumption by a third if extended to all heavy users.[28]

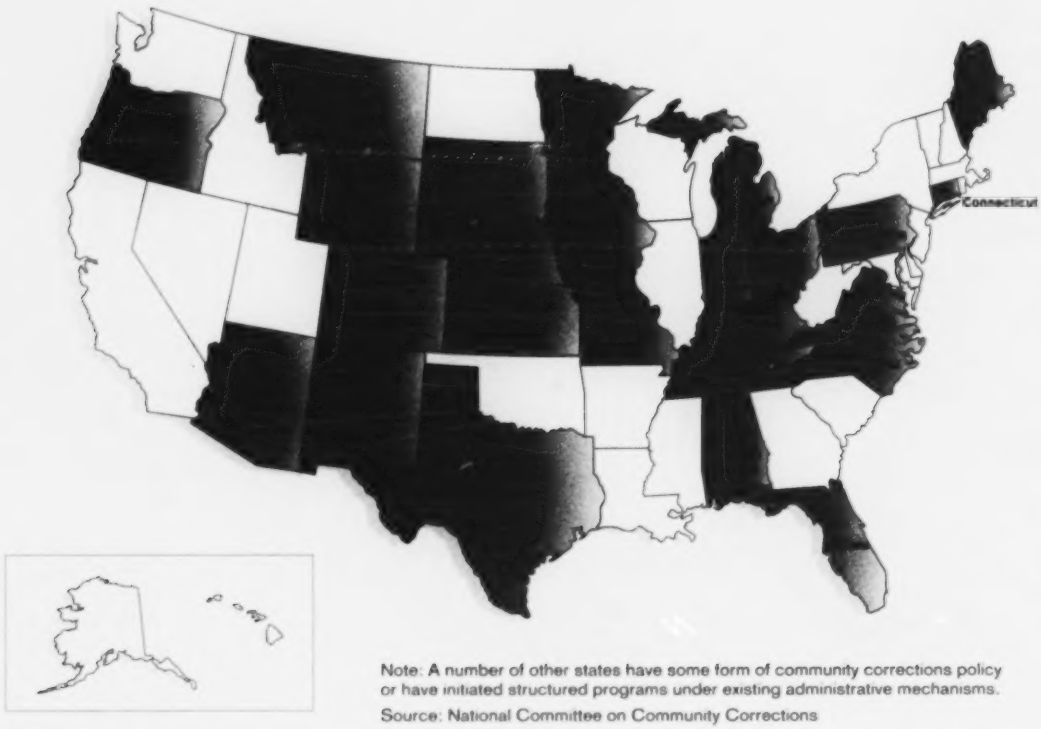
The Drug Treatment Alternative to Prison (DTAP) program, initiated by the Brooklyn, New York District Attorney's office, targets nonviolent defendants in criminal drug cases charged with a second felony offense who, because of a New York State mandatory sentencing law, would be sent to prison if convicted. These pretrial defendants are given the option to enter residential treatment centers. If they successfully complete the program, the DA's office dismisses the charges and the offender avoids a prison sentence.

As of early 1995, the program achieved a 60 percent retention rate—a level considered significant because retention is the best predictor of success in treatment. Of the participants who had been released for at least six months after completing the program, only 12 percent had been rearrested, compared to 40 percent for a comparable group that had been incarcerated without receiving substantial treatment. Those who do not complete the program are returned to court where prosecution resumes, making them ineligible for the DTAP Program.[29]

Foster Cook, assistant professor of psychiatry and director of substance abuse services and research at the University of Alabama at Birmingham, explains, "A number of studies have shown that resistant clients who are ordered by the court to enter drug treatment programs do as well as people who walk in and say, 'Please help me.' This is because court intervention creates carrots and sticks that the treatment provider can use to increase length of stay, and length of stay in treatment programs is a chief factor determining success."[30]

STATES WITH COMMUNITY CORRECTIONS LEGISLATION

JANUARY 1994



Note: A number of other states have some form of community corrections policy or have initiated structured programs under existing administrative mechanisms.

Source: National Committee on Community Corrections

Other programs like El Rio in the South Bronx treat addicts in an intensive out-patient center located in their own community as an alternative to pretrial detention or incarceration. Some substance abuse experts favor community-based programs because they promote the development of coping skills that forestall relapse once the client has graduated from the program. Clients spend an average of six months at El Rio, working with staff and peers to overcome problems that feed their addiction; they also learn new skills, undergo frequent drug testing, participate in a variety of group activities and receive individualized counseling and acupuncture for detoxification and sobriety maintenance.

It is difficult to maintain sobriety once one completes either out-patient or residential treatment. Relapse is increasingly viewed as a natural part of the recovery process and more and more attention is being paid to handling relapses. Howard Isenberg, director of the North East Treatment Center, a program that works with offenders on an out-patient basis in Wilmington, Delaware, notes, "Appropriate measures of treatment success do not rely on a one-dimensional criterion like sobriety rate. They look at the level of functioning in a variety of areas, including life management skills, employability, ability to meet commitments and to create and maintain personal relationships that support recovery. By these kinds of measures, 86 percent of the people who complete our program are successful in improving their level of functioning and achieving sustained recovery."

DRUG COURTS

A relatively new, but rapidly growing, intermediate sanction is provided through drug courts, which were established in the late 1980s. Development of these courts proceeded along two divergent tracks: in some instances the courts were designed to speed up processing of the increasing number of drug cases; the

other approach to drug courts sought to provide incentives for offenders to enter treatment programs.

Court officials in Miami established the first such treatment court in 1989, with at least 20 additional jurisdictions setting up similar models by 1993.[10] The programs generally involve having drug-addicted offenders enter treatment either through diversion from formal court processing or upon acceptance of a guilty plea. Judicial oversight of the treatment process is a key element of these programs, as is the collaborative relationship established among the judge, prosecutor, defense attorney and community.

During an 18-month period, two-thirds of drug court defendants in the Miami program avoided arrest, compared to half of those offenders whose cases were not handled by the drug court.[11]

SEX OFFENDER TREATMENT

Programs for sex offenders have become better targeted and more sophisticated in recent years. Typically, treatment involves group therapy, individual counseling and inmate support groups. Less frequently provided are medical treatment, physiological assessment, behavioral therapy and other measures.

Because sex offenses cover a broad range from exhibitionists and "peeping Toms" to violent sexual aggressors, effective treatment strategies must be tailored to the needs of the offender. About 80 percent of the programs are offered outside prison, working with newly released offenders as well as with clients who committed nonviolent sex offenses and were not imprisoned.[12] Sex offenders being treated while incarcerated are segregated from the general inmate population by 17 prison systems.[13]

A 1994 survey by The Safer Society Program and Press in Vermont, a referral service for sex offenders and their victims, identified 1,784 treatment programs nationwide.[14] Of these programs, 309 were residential and 1,475, community-based. Programs were either private, court-sponsored or community run.

Many psychologists believe that most sex offenders, like alcoholics, can be rehabilitated but not cured and support probation for life, as a way of enforcing post-prison supervision and counseling. In an attempt to control sex offenders once they are released from prison, a number of states have introduced laws requiring community notification when sex offenders move into a neighborhood. These laws have been dubbed "Megan's laws" for a New Jersey child who was raped and killed by a sex offender who had completed his sentence.

A 1993 analysis of sex offender treatment, presented to the Association for the Treatment of Sexual Abusers by Dr. Margaret A. Alexander, clinical director of the Wisconsin Sex Offender Treatment Program, examined outcomes of 68 studies. She found that recidivism of treated offenders was 10.9 percent versus 18.5 percent for untreated offenders. Additionally, she reported that offenders treated with relapse prevention intervention, an emerging treatment program, in combination with either behavioral or group treatment had recidivism rates of 5.9 percent compared with 13.4 percent of others who received just the combination of behavioral and group therapy.[15]

The programs with the lowest recidivism rates provide long-term, intensive treatment and ongoing services once initial treatment is completed, according to Fay Honey Knopp, founder and former director of the Safer Society Program.[16]

In 1992, 26 prison systems reported making recent changes in their handling of sex offenders, including: requiring treatment programs that follow a continuum from pre-treatment, through treatment to community aftercare; starting special programs for female offenders; officer training; mandatory treatment for certain offenders; and emphasis on relapse prevention and victims' concerns.[17] By mid-1995, however, budgetary constraints and the nationwide trend toward tougher sentences led to elimination or reductions in funding for sex offender therapy in a growing number of states including Virginia, Alabama, Oregon, Florida and Massachusetts.[18]

Dr. Alexander notes: "The move to terminate funding for sex offender treatment is premature given that we are seeing some positive trends in treatment versus no treatment data, and we need to put more money instead into examining what is working."[19]

DAY REPORTING

Day reporting centers typically require offenders to report every day to a central location where they file a daily schedule with their supervision officer, showing how each hour will be spent—at work, in class, at support group meetings, etc. The concept was first developed in Great Britain and began to appear in the United States in the mid-1980s. By 1994, more than 50 programs were operating in 20 states.[20]

Day reporting programs differ from state to state. Some centers refer clients to service agencies; others provide services directly. Some focus on monitoring; others emphasize support.

• The Metropolitan Day Reporting Center run by the Crime and Justice Foundation in Massachusetts requires participants to obey a curfew, perform community service and undergo drug testing twice a week. Participants check into the center in person once a day and telephone periodically. They are responsible for following a full-time schedule that includes a combination of work, school and substance abuse or mental health treatment.[40]

• The Day Reporting Center operated by the Cook County sheriff's department in Illinois incorporates AIDS prevention, stress management and nutritional education in its program.[41]

HOUSE ARREST AND ELECTRONIC MONITORING

An offender sentenced to house arrest must spend all or most of the day at home. Compliance is enforced in some states by requiring the offender to wear a small transmitter on the wrist or ankle, which sends electronic signals to monitoring units. House arrest can stand alone as a sanction or can be coupled with fines and other obligations; the term of the sentence can range from several days to several years in duration.

House arrest programs are operating throughout the United States:

• The National Institute for Justice reported that a daily average of more than 45,000 offenders in all 50 states were electronically monitored in 1992, up from just 95 in 1986.[42]

• In 1995, Florida had 14,041 offenders under house arrest, many of whom were electronically monitored.[43]

NONPRISON RESIDENTIAL PROGRAMS

Many states have experimented with residential programs, designed to put offenders in structured settings, such as halfway houses, which allow them to leave the premises for work or other approved activities like drug treatment.

One residential model that has been widely adopted throughout the country is the restitution center. First developed in Wisconsin and Minnesota, restitution centers control and provide support for residents, who must pay victim restitution and child support out of earnings from working in the community.

The Griffin Diversion Center, established in the early 1970s in Griffin, Georgia, earned high praise from the community, in part because the director and staff aggressively built relationships with judges and the local business community. "Work, education and community are the foundation of this program," says the former director of the Center, James Fletcher.

Residents work eight hours a day, take care of all the Center's maintenance, perform community service on weekends, attend classes or counseling sessions in the evening and submit to regular drug testing. They also participate in sports tournaments and organize food and clothing drives. Residents are considered valuable workers by area businesses, and the program has faced virtually no resistance from its neighbors.

BOOT CAMPS

Offenders sentenced to boot camps live in military-style barracks and undergo rigorous physical and behavioral training for three to six months. Boot camps are generally reserved for first-time offenders in their late teens or early twenties who are viewed as more open to changing their attitudes and behavior than are older offenders. These highly regimented programs are designed to give offenders a sense of responsibility and accomplishment while improving self-discipline. Originated in 1983 in Georgia and Oklahoma, boot camps for adult offenders are now run

High quality intermediate sanctions must be thoughtfully conceived, effectively targeted, well-planned and well-staffed.

by more than 30 states and the Federal Bureau of Prisons. Other camps have been opened for juvenile offenders.[44]

Some corrections experts argue that boot camps are unable to sustain a lasting impact because they do not go far enough in meeting the needs of offenders, and rearrest rates of boot camp graduates are similar to those of former inmates.[45] Research shows that boot camps are more effective if some form of after-care service is included in the program.

"If an offender can't read, write and is drug-involved," argues Dale Parent, a senior analyst for Abt Associates in Cambridge, "sending him to a 90-day boot camp that does not address his job or literacy needs will only have a short-term effect, if any, on his behavior."

Most boot camps are used as an alternative to prison or probation, but in New York State, felony offenders imprisoned for the first time are sometimes targeted for participation in "shock incarceration camps." In these camps, a military regimen is combined with substance abuse counseling, high school equivalency classes and community service. Men and women speed up their release from custody by successfully completing the program. Upon completion, offenders are required to participate in an intensive six-month after-care program that provides them with a job, helps them stay employed, and improves their chances of success after release.

CLIENT-SPECIFIC PLANNING

Developed in 1980 by the National Center on Institutions and Alternatives (NCIA), client-specific planning, sometimes called defense-based sentencing, employs independent sentencing specialists who provide judges with a recommended plan for sentencing individual offenders. The plan includes background profiles describing the offender's family history, education, employment, financial responsibilities, potential for meeting the demands of a community-based punishment plan in lieu of incarceration, and any other appropriate mitigating circumstances. Based on that information, the sentencing specialist recommends a penalty for the offender that may include probation, drug or alcohol treatment, employment, payment of restitution to the victim or a variety of other special conditions, as well as prison time. The judge may adopt, alter or turn down the proposal.

Effective client-specific planning is dependent on the availability of community resources such as employment training, job banks, treatment and third-party supervision programs—services needed to enforce the judge's sentence and stimulate behavioral change on the part of the offender. Most communities (even many rural areas) have such resources, but are unaware that they could be used to help offenders. One advantage of client-specific planning is that it tends to link the community with the courts and promote reintegration of offenders.

A 1994 survey by The Sentencing Project documented more than 200 client-specific planning programs operating in 37 states, handling over 22,000 cases per year.[46] A 1992 review of 16 programs found that on average, 70 percent of their sentencing recommendations were accepted in full or in part by the courts.[47]

THE VALUE OF INTERMEDIATE SANCTIONS

The unprecedented growth in the nation's prison population has placed a heavy economic burden on taxpayers, in terms of both the fiscal cost of building, maintaining and operating prisons and jails and the human cost of an offender's lost potential and the destabilized families that are left behind. In addition, overcrowded prisons are hard to manage and invite disorder and even riot. Intermediate sanctions are a valuable resource to lessen these problems. Moreover, they provide a means for offenders who are not dangerous to repay their victims and their communities. Intermediate sanctions also promote rehabilitation—which most citizens want, but most prisons are no longer able to provide—and the reintegration of the offender into the community. And once the programs are in place, they do this at a comparatively low cost.

High quality sanctions must be thoughtfully conceived, effectively targeted, well-planned and well-staffed. Although they can be less expensive than prison, they should not be done cheaply. The task has the added complexities of controlling behavior in the less restrictive setting of the community.

Incarceration is appropriate for offenders who endanger the community. Finding the space to incarcerate them, however, can be problematic, since prisons have been filled with offenders for whom intermediate sanctions may provide a reasonable and effective form of punishment. Increasingly, even in a period of inflamed public opinion about crime, citizens are embracing the concept of punishments without prisons for nonviolent offenders. This approach saves prison resources for violent and career offenders. (See Chapter 7, *What the Public Thinks*)

SOURCES

1 National Committee on Community Corrections, "Proposal for Action," 1994.

2 Bureau of Justice Statistics, Census of State and Federal Facilities, 1990.

3 Mary Shilton, International Association of Residential and Community Services, Survey of Selected States, 1994.

4 National Committee on Community Corrections, "Proposal for Action," 1994.

5 Bureau of Justice Statistics, Press Release, "Probation and Parole Populations Reach New Highs," September 11, 1994.

6 Bureau of Justice Statistics, Press Release, "Probation and Parole Populations Reach New Highs," September 11, 1994.

7 Bureau of Justice Statistics, "Probation and Parole, 1993," 1994.

8 Bureau of Justice Statistics, "Justice Expenditures and Employment, 1990," September 1992.

9 Criminal Justice Institute, *The Corrections Yearbook: Probation and Parole 1994*, 1994.

10 Patrick A. Langan and Mark Cunniff, "Recidivism of Felons on Probation, 1986–89," Bureau of Justice Statistics, February 1992.

11 Patrick A. Langan and Mark Cunniff, "Recidivism of Felons on Probation, 1986–89," Bureau of Justice Statistics, February 1992.

12 Patrick A. Langan and Mark Cunniff, "Recidivism of Felons on Probation, 1986–89," Bureau of Justice Statistics, February 1992.

13 Criminal Justice Institute, *The Corrections Yearbook: Probation and Parole 1994*, 1994.

14 National institute of Justice, *25 Years of Criminal Justice Research*, December 1994.

15 Joan Petersilia and Susan Turner, "Evaluating Intensive Supervision Probation and Parole," in Michael Tonry and Kate Hamilton, editors, *Intermediate Sanctions in Overcrowded Times*, 1995.

16 Dennis Wagner and Christopher Baird, "Evaluation of the Florida Community Control Program," National Institute of Justice, January 1993.

17 Dennis Wagner and Christopher Baird, "Evaluation of the Florida Community Control Program," National Institute of Justice, January 1993.

18 Dennis Wagner and Christopher Baird, "Evaluation of the Florida Community Control Program," National Institute of Justice, January 1993.

19 Norval Morris and Michael Tonry, *Between Prison and Probation*, Oxford, 1990.

20 Vera Institute of Justice, 1995.

21 Mark Umbreit, "Victim Empowerment Through Mediation: The Impact of Victim-Offender Mediation in Four Cities," *Perspectives*, Vol. 18, No.3, 1994.

22 Norval Morris and Michael Tonry, *Between Prison and Probation*, Oxford, 1990.

23 Bureau of Justice Statistics, " Felony Sentences in State Courts, 1992," January 1995.

24 Norval Morris and Michael Tonry, *Between Prison and Probation*, Oxford, 1990.

25 Center for Alternative Sentencing and Employment Services, 1995.

26 New York State Department of Correctional Services, "Per Capita Report," 1994.

27 "Intermediate Sanctions in California," *Overcrowded Times*, June 1995.

28 C. Peter Rydell and Susan S. Everinham, "Controlling Cocaine: Supply vs. Demand Programs," RAND, 1994.

29 Kings County District Attorney's Drug Treatment Alternative to Prison, "Fact Sheet," February 1995.

30 John Goldkamp, *Justice and Treatment Innovation: The Drug Court Movement*, National Institute of Justice, December 1993.

31 Walter Dickey, "Low-Level Drug Offenders: Lessons From the Drug Courts," Campaign for an Effective Crime Policy, November 1994.

32 Safer Society Program, "Treatment Survey," 1994.

33 CEGA Services, Inc., "Incarcerated Sex Offenders Total Nearly 100,000," *Corrections Compendium*, November 1993.

34 Safer Society Program, "Treatment Survey," 1994.

35 Margaret A. Alexander, "Sex Offender Treatment: A Response to the Furby et.al., Quasi-meta Analysis," Association for the Treatment of Sexual Abusers, November 1993.

36 Safer Society Program, 1995.

37 CEGA Services, Inc., "Incarcerated Sex Offenders Total Nearly 100,000," *Corrections Compendium*, November 1993.

38 Peter Baker, "Allen to End Sex Therapy in Virginia Prisons," *Washington Post*, December 29, 1994, and Oregon Department of Corrections.

39 Crime and Justice Foundation, 1995.

40 Crime and Justice Foundation, 1995.

41 Kristi Turnbaugh, "Cook County Sheriff's Day Reporting Center," *The Compiler*, Winter/Spring 1995.

42 National Institute of Justice, *25 Years of Criminal Justice Research*, December 1994.

43 Florida Department of Probation and Parole, "P & P Fact Sheet," June 1995.

44 National Institute of Justice, *25 Years of Criminal Justice Research*, December 1994.

45 Doris Layton MacKenzie, "Boot Camps: A National Assessment," *Overcrowded Times*, August 1994.

46 The Sentencing Project, *National Directory of Sentencing Advocacy Services*, 1995.

47 Matthew Yeager, "Client-Specific Planning: A Status Report," *Criminal Justice Abstracts*, September 1992.

7 WHAT THE PUBLIC THINKS

MYTH

The public increasingly favors "lock-'em-up" solutions to crime.

FACT

Americans have become more and more concerned about the problem of crime, and increased incarceration often seems like a solution. But studies have shown that when the public is made aware of the possible range of punishments, and given information about how and with whom they are used, they support alternatives to incarceration—including punishments administered in the community—for offenders considered nonviolent and low-risk.

Throughout the past decade, public opinion studies have portrayed a citizenry that is more fearful of crime but less punitive than many political leaders believe. Interestingly, two centuries after the Pennsylvania Quakers invented the concept of prisons as places where criminals might come to grips with their wrongdoings, studies show the American public still holds rehabilitation as a primary goal of criminal justice.

In one six-month period ending January 1994, a Washington Post/ABC News poll showed that Americans who listed crime as the nation's number one issue increased from 5 percent to 31 percent. Still other survey respondents perceive that crime is increasing and public safety is threatened, yet majorities report that they "feel safe" in their own communities. They consistently support treatment for drug-addicted offenders, and a number of studies indicate public preference for strict forms of community-based sanctions instead of prison for offenders who are not a threat to the public's safety.

Findings from a variety of researchers are summarized here.

UNITED STATES, 1995

(from "Americans Look at the Drug Problem," a national survey conducted by Peter D. Hart Research Associates for Drug Strategies, based on a February 1995 survey of 1,003 Americans):

- More than a third of adults would spend three-quarters of anti-drug funding on prevention, education and treatment, while 80 percent would spend at least half on these areas. (Only one-third of federal anti-drug funding is currently spent on these areas.)
- Fifty-three percent of Americans believe that drug use is more of a public health problem than a criminal justice problem and could be better handled through prevention and treatment.

OREGON, 1995

(from a statewide survey conducted by Doble Research Associates consisting of six focus group sessions and a telephone survey of 439 adults):

- After learning that alternative punishments are less restrictive than incarceration and that in many cases offenders in the programs are in the communities instead of behind bars, 92 percent of Oregonians favored them for nonviolent offenders.
- Eighty-eight percent favored mandatory treatment for offenders with alcohol or drug problems.
- Ninety-six percent favored restitution for nonviolent offenders, where offenders must pay back the victims of their crime, and boot camps, where offenders get up early, work hard all day and have the opportunity to get a GED or job training. Ninety-seven percent favored community service for nonviolent offenders, where offenders perform unpaid services such as litter pickup to repay the community.

UNITED STATES, 1994

(from a survey sponsored by U.S. Senator Paul Simon, D-Ill., of 157 prison wardens in eight states):

- Prison wardens indicated that 50 percent of the offenders under their supervision would not be a danger to society if released.
- Fifty-eight percent of wardens opposed mandatory minimum sentences for drug offenders and 92 percent supported greater use of alternatives to incarceration.
- To fight crime, 71 percent of wardens supported improving public schools, 62 percent favored increasing job opportunities and 54 percent wanted longer sentences for violent offenders.

HOUSTON, 1994

(from a 1994 survey of Houston area residents by Stephen L. Klineberg, professor of sociology at Rice University):

- Seventy-three percent of those surveyed cited crime as the number one problem facing Houstonians, up from 51 percent in 1993 and 9 percent in 1987. Meanwhile, the incidence of reported crimes in Houston hit a 10-year low in 1993.
- Despite their fear of crime, when asked how corrections spending should be directed to effectively reduce crime, 56 percent of the Houstonians surveyed favored spending corrections dollars to reduce poverty and keep young people in school, compared to 38 percent who said the money should be spent to send criminals to prison for long periods of time.

PENNSYLVANIA, 1992; DELAWARE, 1991; AND ALABAMA, 1988

(from randomly selected, statewide focus groups of 401 citizens from Pennsylvania in 1992, 432 citizens from Delaware in 1991 and 422 citizens from Alabama in 1988, conducted by the Public Agenda Foundation of New York City):

- In Pennsylvania, Delaware and Alabama, a majority of participants chose prison for violent offenders even when alternatives were available.
- After learning about the availability of alternative punishments, a clear majority in all three states favored nonprison sanctions for nonviolent offenders.
- Eighty-six percent of the Pennsylvanians, 89 percent of the Delawareans and 90 percent of the Alabama participants believed alternatives gave judges "the flexibility to make the punishment fit the crime."
- Sixty-six percent of the Pennsylvanians, 68 percent of the Delawareans and 75 percent of the Alabamians felt nonprison sanctions improved "the chance that an offender will be rehabilitated."
- Of five alternatives to prison—strict probation, house arrest, boot camp, strict probation plus community service and strict probation plus restitution—respondents from all three states indicated a strong preference for programs that coupled supervision with restitution and/or work.

UNITED STATES, 1991

(from "New Public Opinion Poll Cites Support for Intermediate Punishment Programs," by Neil F. Tilow, in Perspectives, Winter, 1992; based on a survey of 1,009 Americans, conducted by The Wirthlin Group in September 1991):

- Four out of five Americans favored community corrections programs over prison for criminal offenders who are not dangerous.
- Thirty-five percent were "strongly in favor" and 45 percent "somewhat in favor" of intermediate sanctions in which nondangerous offenders are required to hold a job, perform community service, pay restitution to their victims and receive counseling.
- Only one in five of the respondents opposed community corrections programs, stating that criminals belong in prison and that community-based programs pose a risk for the public. Support for community corrections was lowest among citizens 65 and over, although 71 percent of this group still favored the programs.
- Support for community corrections was higher among African-Americans and other ethnic groups (86 percent) than among whites generally (78 percent) and is highest in the Mountain and Pacific regions of the country (89 percent) and lowest in the South (70 percent).
- Eighty percent of Republicans and 79 percent of Democrats supported community corrections.

CALIFORNIA, 1991

(from "Californians Support Community Punishments," by Lawrence A. Bennett, Ph. D., American Jails, March/April 1991; based on a survey by the American Justice Institute in Sacramento of 1,000 Californians from six metropolitan areas):

- Seventy-six percent of respondents felt the state should find ways of punishing offenders that are less expensive than prison but more restrictive than probation.
- Given 25 hypothetical cases ranging from petty theft to rape and asked to sentence offenders to either prison or probation, Californians sentenced more than 60 percent to prison. After listening to a short description of the state's current prison population, costs of prison construction and a description of various alternatives to prison, however, they wanted to send only 27 percent to prison, for the most part those offenders convicted of violent crimes or those with a long series of prior offenses.
- Californians supported community programs even for serious offenses including, in some cases, burglaries, embezzlements and drug dealing, as well as drunk driving and shoplifting.
- Respondents believed that infractions of strict probation, including oversleeping or missing appointments, should be severely dealt with by increasing the severity of the sanction. Serious probation violations should be handled by imprisonment, many respondents said.
- When asked about the possibility of a residential restitution center in their community, 88 percent supported the idea.

UNITED STATES, 1989 and 1981

(from the Gallup Report, June 1989, based on surveys of 1,235 people in 1989 and 1,540 in 1981):

- When asked, "What factors are most responsible for crime in the U.S. today?" 58 percent of those polled in 1989 cited drugs; 14 percent, unemployment; and 13 percent, breakdown of family and society values. In 1981, 13 percent cited drugs; 37 percent, unemployment; and 19 percent, breakdown of family and society values.
- In 1981, 13 percent thought punishment was too lax; in 1989, that figure dropped to 4 percent.
- Twenty percent of respondents in 1981 believed the courts were too lenient; in 1989, that figure dropped to 4 percent.

Interestingly, two centuries after the Pennsylvania Quakers invented the concept of prisons as places where criminals might come to grips with their wrongdoings, studies show the American public still holds rehabilitation as a primary goal of criminal justice.

RESOURCES

CRIMINAL JUSTICE POLICY RESEARCH

ABT ASSOCIATES, INC.

Dale Parent, Senior Scientist

Douglas McDonald, Senior Scientist

55 Wheeler Street

Cambridge, MA 02138-1168

(617) 492-7100

Abt Associates is a social science research firm. Its Law and Public Policy group studies a variety of law and justice issues, including sentencing and corrections policies and programs.

ALFRED BLUMSTEIN, PROFESSOR

H. John Heinz III School of Public Policy and Management

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Pittsburgh, PA 15213-3890

(412) 268-8269

Dr. Blumstein's research focuses on prison populations, sentencing and criminal careers. He is a former chair of the Pennsylvania Commission on Crime and Delinquency.

CEGA SERVICES, INC.

Darrell Bryan, Director

P.O. Box 81826

Lincoln, NE 68401-1826

(402) 464-0602

An information and referral agency, CEGA publishes the Corrections Compendium, a monthly journal for corrections professionals which reports statistics on corrections topics on a state-by-state basis. CEGA also runs an offender service program which helps inmates with parole and transitional planning.

CRIMINAL JUSTICE INSTITUTE, INC.

George Camp, Principal

Spring Hill West

South Salem, NY 10590

(914) 533-2000

The Criminal Justice Institute conducts research, provides consulting services, publishes the Corrections Yearbook and disseminates information to criminal justice practitioners around the country.

DOBLE RESEARCH ASSOCIATES

John Doble, President

375 Sylvan Avenue

Englewood Cliffs, NJ 07632

(201) 568-7200

Doble Research Associates conducts public opinion research on topics facing the country such as crime, prison overcrowding and intermediate sanctions.

DANIEL J. FREED, CLINICAL PROFESSOR EMERITUS OF LAW AND ITS ADMINISTRATION

Yale Law School

127 Wall Street

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Professor Freed directs the Clinical Sentencing Program at Yale, bringing together judges, district attorneys, corrections professionals, sentencing consultants and law students to analyze sentencing practice and policy.

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Professor Harris conducts research on community corrections legislation and programs and sentencing reform.

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As a principal at the Crime and Justice Research Institute in Philadelphia, Dr. Harris monitors the progress of delinquent youths within the juvenile justice system and evaluates prevention programs.

JOHN F. KENNEDY SCHOOL OF GOVERNMENT

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(617) 495-5188

The Program in Criminal Justice Policy and Management aims to strengthen criminal justice institutions and practitioners by challenging conventional wisdom through research and debate on justice policy and management issues.

NORVAL MORRIS, PROFESSOR

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Dr. Morris has written widely on subjects of criminal law, criminology and corrections policy. He is a consultant to a number of state, federal and international agencies and has served as special master of the federal district court, monitoring conditions in Statesville Prison in Illinois.

NATIONAL COUNCIL ON CRIME AND DELINQUENCY

Barry Krisberg, President

685 Market Street, Suite 620

San Francisco, CA 94105

(415) 896-6223

James Austin, Vice-President

1325 G Street, Suite 770

Washington, DC 20005

(202) 638-0556

The National Council on Crime and Delinquency conducts research on programs and policies designed to reduce crime and delinquency. NCCD publishes papers on corrections issues, statistical updates and a quarterly newsletter, NCCD Focus.

NATIONAL INSTITUTE OF JUSTICE

Jeremy Travis, Director

633 Indiana Avenue, NW

Washington, DC 20531

(202) 307-2942

A research and development agency of the United States Department of Justice, the National Institute of Justice seeks to prevent and reduce crime and improve the criminal justice system.

NATIONAL INSTITUTE ON DRUG ABUSE

Alan Leshner, Director

5600 Fishers Lane

Rockville, MD 20857

(301) 443-6245

The National Institute on Drug Abuse (NIDA) is the lead federal agency conducting research on the prevalence of drug abuse in the U.S. The Institute studies the causes and consequences of drug abuse, as well as prevention and treatment techniques.

CHARLES OGLETREE, PROFESSOR

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Professor Ogletree is a criminal defense attorney and an authority on civil liberties and constitutional law.

PUBLIC AGENDA

Deborah Wadsworth, Executive Director

6 East 39th Street, Suite 900

New York, NY 10016

(212) 686-6610

Public Agenda is a research and educational organization that explores public understanding of complex policy issues. The group has conducted studies on policy perceptions of crime, corrections and the use of intermediate sanctions and has developed issue guides on crime and juvenile violence.

RAND

Peter Greenwood, Director

Criminal Justice Program

1700 Main Street

P.O. Box 2138

Santa Monica, CA 90401-2138

(310) 393-0411

Through policy and program research, RAND's Criminal Justice Program seeks to promote public safety, effective use of resources and constitutional conditions of confinement in prisons and jails.

SAFER SOCIETY PROGRAM AND SAFER SOCIETY PRESS

Pat Freeman-Longo, Co-Director

Robert Freeman-Longo, Co-Director

P.O. Box 340

Brandon, VT 05733-0340

(802) 247-3132

Safer Society is a national research, advocacy and referral center focusing on the prevention and treatment of sexual abuse. Safer Society Press publishes research and training materials on the nature of sex offenses, the treatment and control of sex offenders and the needs of victims.

MICHAEL TONRY, PROFESSOR

University of Minnesota Law School

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Professor Tonry has written extensively on sentencing and sanctions issues and is the editor of Overcrowded Times, a newsletter chronicling the progress of justice reform efforts in various states and reporting on corrections development in the U.S. and abroad.

VERA INSTITUTE OF JUSTICE

Christopher Stone, Director

337 Broadway, 11th Floor

New York, NY 10013

(212) 334-1300

The Vera Institute works to enlarge justice in institutions of government. Its research and demonstration projects have catalyzed changes throughout the United States, as well as a number of other countries, in policing procedures, court administration, bail, prosecution and defense services, sentencing, community supervision, employment services and addiction treatment.

TRAINING AND TECHNICAL ASSISTANCE ORGANIZATIONS

CENTER FOR EFFECTIVE PUBLIC POLICY

Peggy McGarry

8403 Colesville Road

Silver Spring, MD 20910

(301) 589-9383

The Center for Effective Public Policy provides training and technical assistance to state and local policymakers on effective, collaborative decision-making that incorporates sound information and promotes more rational criminal justice policies.

THE EDNA MCCONNELL CLARK FOUNDATION

Justice Program

Kenneth F. Schoen, Director

Julie Peterson, Associate

250 Park Avenue

New York, NY 10177-0026

(212) 551-9100

The Justice Program encourages the development of a safe, affordable and fair system of criminal sanctions for adult offenders. The Program works with officials in selected states to develop their capacity to formulate and implement sound sentencing and corrections policies. The Program also supports a variety of educational initiatives and litigation to improve conditions in prisons and jails throughout the country.

THE STATE-CENTERED PROGRAM OF THE EDNA MCCONNELL CLARK FOUNDATION

Judith A. Greene, Program Director

Kathryn R. Monaco and Donna Reback,

State Coordinators

377 Broadway—11 Floor

New York, NY 10013

(212) 334-1300

The state-centered program works in partnership with interested policymakers in selected states to help achieve a balanced correctional system. Participating states are assisted in devising and implementing a comprehensive strategy for reform geared toward developing

policymaking structures, improving sentencing and correctional policies and practices, expanding the availability and use of non-incarcerative sanctions and improving the political climate to support rational policies.

DIMASCIO & ASSOCIATES, INC.

William M. DiMascio, APR, President

201 N. Presidential Boulevard

Bala Cynwyd, PA 19004-1257

(610) 664-6415

DiMascio & Associates, Inc. specializes in the development and implementation of strategic communications programs to support a variety of public policy initiatives. The consulting firm also provides technical assistance and training for state and county agencies involved in public education programs focused on criminal justice issues.

DRUG POLICY FOUNDATION

Arnold S. Trebach, J.D., Ph.D., President

David C. Condliffe, Esq., Executive Director

4455 Connecticut Avenue, NW

Suite B-500

Washington, DC 20008-2302

(202) 537-5005

The Drug Policy Foundation is an independent, non-profit organization that researches and publicizes alternatives to current drug strategies. Through a variety of programs, the Drug Policy Foundation helps educate political leaders and the public about alternative drug control policies including harm reduction, decriminalization, medicalization and legalization.

INSTITUTE FOR COURT MANAGEMENT

National Center for State Courts

Ingo Keilitz, Vice President

P.O. Box 8798

Williamsburg, VA 23187-8798

(804) 253-2000

The Institute for Court Management is the education and information division of the National Center for State Courts and supports the administration and leadership of state courts.

NATIONAL ASSOCIATION OF COUNTIES

Donald Murray, Associate Legislative Director

440 First St. NW

Washington, DC 20001

(202) 393-6226

Through conferences, seminars and its bi-monthly publication, County News, the National Association of Counties seeks to assist county policymakers in making informed decisions on criminal justice issues. The Association has long promoted community corrections acts and capacity-based sentencing guidelines.

THE NATIONAL CENTER FOR CITIZEN PARTICIPATION IN THE ADMINISTRATION OF JUSTICE

Margot Lindsay, Chair

14 Beacon Street, Suite 710

Boston, MA 02108

(617) 350-6150

The National Center for Citizen Participation in the Administration of Justice is a nonprofit organization that promotes public involvement in the justice system. The Center works with courts and corrections agencies to create mechanisms for including citizens in the development, monitoring and evaluation of justice policies and programs.

NATIONAL CENTER FOR STATE COURTS

Larry L. Sipes, President

300 Newport Avenue

Williamsburg, VA 23187

(804) 253-2000

The National Center for State Courts provides assistance to trial and appellate courts working to improve administration practices at the state and local levels. The Center offers consulting services, studies court processes, acts as a clearinghouse for exchange of information on court issues and conducts conferences and training courses.

NATIONAL CENTER ON INSTITUTIONS AND ALTERNATIVES

Jerome Miller, President

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635 Slaters Lane, Suite G-100

Alexandria, VA 22314

(703) 684-0373

The National Center on Institutions and Alternatives provides client-specific planning services, manages sanctions, conducts research and provides technical assistance to justice practitioners and policymakers.

NATIONAL CONFERENCE OF STATE LEGISLATURES

Donna Hunzeker, Program Manager

Criminal Justice

1560 Broadway, Suite 700

Denver, CO 80202

(303) 830-2200

The National Conference of State Legislatures is the official representative of America's 7,500 state lawmakers and their staff. Through its information services, training sessions, special projects and committees, the Criminal Justice Program of the Conference seeks to help legislators make informed decisions about criminal justice policy.

NATIONAL INSTITUTE OF CORRECTIONS

Morris Thigpen, Director

George M. Keiser, Chief

Community Corrections Division

320 First Street, NW

Washington, DC 20534

(202) 307-3995 ext. 135

The National Institute of Corrections, a division of the U.S. Department of Justice, provides technical assistance and awards grants to community corrections/probation and parole agencies.

PRETRIAL SERVICES RESOURCE CENTER

Alan Henry, Director

1325 G Street, NW

Suite 1020

Washington, DC 20005

(202) 638-3080

The Pretrial Services Resource Center is a

national clearinghouse for pretrial information. The Center also provides technical assistance and consulting services for justice officials and publishes a national newsletter on pretrial policy.

THE SENTENCING PROJECT

Malcolm Young, Executive Director

Marc Mauer, Assistant Director

918 F Street NW, Suite 501

Washington, DC 20004

(202) 628–0871

The Sentencing Project provides training and technical assistance on sentencing alternatives and engages in research and advocacy on criminal justice policy issues.

MARY K. SHILTON, J.D.

Criminal Justice Planner

3903 Gresham Place

Alexandria, VA 22305

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Ms. Shilton specializes in correctional planning including the development of community corrections legislation and other state, local and private partnerships for effective use of correctional resources.

STATE JUSTICE INSTITUTE

David I. Tevelin, Executive Director

1650 King Street, Suite 600

Alexandria, VA 22314

(703) 684–6100

The State Justice Institute provides funds to state courts, universities and organizations that provide judicial education and promotes refinement of sentencing practices.

SERVICE PROVIDERS

CENTER FOR ALTERNATIVE SENTENCING AND EMPLOYMENT SERVICES

Joel Copperman, Executive Director

346 Broadway, 3 West

New York, NY 10013

(212) 732–0076

The Center for Alternative Sentencing and Employment Services (CASES) runs community-based programs for at-risk youth and offenders in New York City.

THE CRIME AND JUSTICE FOUNDATION

John Larivee, Executive Director

95 Berkeley Street

Boston, MA 02116

(617) 426–9800

The Crime and Justice Foundation is a non-profit agency that manages adult and juvenile community corrections and criminal mediation programs. Staff also provide technical assistance in the areas of program development, corrections management and intermediate sanctions.

DRUG TREATMENT ALTERNATIVE TO PRISON

Susan Powers, Deputy District Attorney

Brooklyn Municipal Building

210 Joralemon Street, Room 407

Brooklyn, NY 11201

(718) 250–2231

The Drug Treatment Alternative to Prison (DTAP) is a program run by the Brooklyn District Attorney's office that targets nonviolent, second-time felony offenders and offers them residential, long-term treatment in lieu of prosecution and imprisonment. The program also provides help with jobs and housing to offenders who have completed treatment.

FLORIDA COMMUNITY CONTROL PROGRAM

Harry Dodd, Director of Probation and Parole Services

2601 Blairstone Road

Tallahassee, FL 32399–2500

(904) 487–2165

The Florida Community Control Program, operated under the auspices of the state Department of Corrections, is a diversion program for offenders who would otherwise have been incarcerated. Participants live and work in the community and are closely supervised by community corrections officers who carry restricted caseloads of no more than 25 offenders.

THE NORTHEAST TREATMENT CENTER

Howard Isenberg, Director

813 West St.

Wilmington, DE 19801

(302) 657–8100

The Northeast Treatment Center is an alcohol and drug outpatient treatment program. The Center conducts client evaluations, offers counseling services and provides residential treatment referrals.

CITIZEN AND ADVOCACY GROUPS

CAMPAIGN FOR AN EFFECTIVE CRIME POLICY

Beth Carter, National Coordinator

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Washington, DC 20004

(202) 628–1903

The Campaign for an Effective Crime Policy is a national coalition of criminal justice and elected officials who have called for "a rational debate on crime and punishment." The Campaign issues public policy papers and works with the media and policymakers to promote an understanding of effective criminal justice policies.

CENTER ON JUVENILE AND CRIMINAL JUSTICE

Vincent Schiraldi, Executive Director

1622 Folsom Street

San Francisco, CA 94103

(415) 621–5661

The Center on Juvenile and Criminal Justice seeks to reduce the use of incarceration as a solution to social problems through the provision of direct services, policy advocacy, public education and technical assistance to clients and agencies around the country.

THE CORRECTIONAL ASSOCIATION OF NEW YORK

Robert Gangi, Executive Director

135 East 15th Street

New York, NY 10003–3596

(212) 254–5700

The Correctional Association of New York is an independent organization that advocates for

correctional reform in New York State prisons. The Association inspects correctional facilities, makes recommendations to the state legislature concerning prison management practices and advocates for greater use of alternatives to incarceration.

DRUG STRATEGIES

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(202) 663-6090

Drug Strategies promotes more effective approaches to the nation's drug problems, and supports private and public initiatives that reduce the demand for drugs through prevention, education, treatment and law enforcement.

FAMILIES AGAINST MANDATORY MINIMUMS

Julie Stewart, President

1001 Pennsylvania Avenue, NW

Suite 200 South

Washington, DC 20004

(202) 457-5790

Families Against Mandatory Minimums (FAMM) is a national, grassroots organization working to repeal mandatory sentencing laws. FAMM educates the media, general public and policymakers about the impact of mandatory minimum sentences on the criminal justice system, the corrections budget and the lives of individuals serving excessive sentences.

JUSTICE FELLOWSHIP

Steve Varnam, Executive Director

P.O. Box 16069

Washington, DC 20041-6069

(703) 904-7312

Through volunteer task forces in 27 states, Justice Fellowship promotes Biblically-based principles of restorative justice which hold offenders accountable for their crimes and restores victims through restitution and reconciliation.

MOTHERS AGAINST DRUNK DRIVING

Bob Shearouse, Director of Public Policy

511 E. John Carpenter Freeway

Suite 700

Irving, TX 75062-8187

(214) 744-MADD

Established in 1980, Mothers Against Drunk Driving is a non-profit organization that strives to find effective solutions to drunk driving and underage drinking. Through 400 chapters nationwide, MADD conducts a variety of programs for youths and adults, offers counseling and emotional support to victims of drunk driving accidents and assists them in the criminal justice process.

MINNESOTA CITIZENS COUNCIL ON CRIME AND JUSTICE

Richard Ericson, President

822 S. Third Street, Suite 100

Minneapolis, MN 55415

(612) 340-5432

The Minnesota Citizens Council on Crime and Justice works to create effective responses to the causes and consequences of crime by providing research, advocacy and a wide range of services to individuals and organizations.

LITIGATION AND LEGAL COUNSEL

FLORIDA JUSTICE INSTITUTE

Randall Berg, Jr., Executive Director

200 South Biscayne Boulevard, Suite 720

Miami, FL 33131

(305) 358-2081

The Florida Justice Institute engages in prison and jail reform litigation and advocacy aimed at restricting the use of incarceration in Florida.

JUVENILE LAW CENTER

Robert G. Schwartz, Executive Director

801 Arch Street, Suite 610

Philadelphia, PA 19107

(215) 625-0551

The Juvenile Law Center (JLC) monitors the use of Pennsylvania facilities that house juveniles both before and after trial and works to improve in-home services. JLC uses litigation, case advocacy, coalition building and training with legislative and executive branches of government to improve the juvenile after-care and probation systems.

THE NATIONAL PRISON PROJECT OF THE AMERICAN CIVIL LIBERTIES UNION

Alvin Bronstein, Executive Director

1875 Connecticut Avenue, NW

Suite 410

Washington, D.C. 20009

(202) 234-4830

Through litigation, negotiation and monitoring of consent decrees, the National Prison Project challenges unconstitutional conditions of confinement in U.S. prisons and jails.

SOUTHERN CENTER FOR HUMAN RIGHTS

Stephen B. Bright, Executive Director

Muadi B. Dibinga, Deputy Director

83 Poplar Street, NW

Atlanta, GA 30303

(404) 688-1202

The Southern Center for Human Rights works to improve conditions in Southern prisons and jails through litigation and community education.

YOUTH LAW CENTER

Mark Soler, President

1325 6th Street, NW

Suite 1020

Washington, DC 20005

(202) 637-0377

Carole Shauffer, Executive Director

114 Sansome Street, Suite 950

San Francisco, CA 94104-3820

(415) 543-3379

Through litigation, technical assistance projects and training, the Youth Law Center works to end the confinement of youths in adult institutions and improve conditions in juvenile detention centers and training schools in the United States. The Center also advocates for the expansion of alternatives to incarceration.

PROFESSIONAL ASSOCIATIONS

AMERICAN CORRECTIONAL ASSOCIATION

James A. Gondles, Jr., Executive Director

8025 Laurel Lakes Court

Laurel, MD 20707-5075

(301) 206-5100

Founded in 1870, the American Correctional Association seeks to shape the development of corrections policy in this country, and to promote professional development in all areas of corrections.

AMERICAN PROBATION AND PAROLE ASSOCIATION

Timothy Matthews, Staff Director

c/o The Council of State Governments

P.O. Box 11910

Lexington, KY 40578

(606) 244-8207

American Probation and Parole Association members are involved in the design, management and delivery of probation, parole and community-based services for both adult and juvenile offenders. The Association publishes reports and policy statements and organizes educational programs.

INTERNATIONAL ASSOCIATION OF RESIDENTIAL AND COMMUNITY ALTERNATIVES

Peter Kinziger, Executive Director

P.O. Box 1987

LaCrosse, WI 54602

(608) 785-0200

Representing residential and other community-based correctional programs, the International Association of Residential and Community Alternatives (IARCA) provides information, training and other services and promotes the development and use of intermediate community sanctions.

NATIONAL ASSOCIATION OF PRETRIAL SERVICE AGENCIES

Melinda Wheeler, President

c/o Kentucky Pretrial Services Agency

100 Millcreek Park

Frankfort, KY 40601

(502) 573-2350

The National Association of Pretrial Service Agencies assists states with the development of pretrial supervision programs.

NATIONAL ASSOCIATION OF SENTENCING ADVOCATES

Gayle, N. Hebron, National Coordinator

918 F Street, NW

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Washington, DC 20004

(202) 628-0871

The National Association of Sentencing Advocates (NASA) works on behalf of defendants in both capital and non-capital cases to present mitigating information and sentencing proposals in criminal court.

NATIONAL CONSORTIUM OF TASC PROGRAMS

Robert May, Executive Director

Earl Huch, TASC Program Manager

8630 Fenton Street, #121

Silver Spring, MD 20910

(301) 608-0595

The National Consortium of TASC (Treatment Alternatives to Street Crime) Programs is a membership organization of programs and individuals dedicated to the professional delivery of case management and treatment services to drug-involved offenders. The Consortium also provides training and technical assistance on linking correctional programs with community transitional services.

NATIONAL ORGANIZATION OF VICTIMS ASSISTANCE

Dr. Marlene Young, Director

1757 Park Road, NW

Washington, DC 20010

(202) 232-6682

The National Organization of Victim Assistance (NOVA) is a non-profit, national organization that provides direct support to victims of violent crime. NOVA assists victims with any legal action they might seek and offers referrals to those who need additional services.

INFORMATION CLEARINGHOUSES

DRUGS AND CRIME DATA CENTER AND CLEARINGHOUSE

1600 Research Boulevard

Rockville, MD 20850

(800) 666-3332

The Drugs and Crime Data Center Clearinghouse makes available, through a contract with the U.S. Department of Justice, information on drug crimes. The Center publishes reports and bibliographies and provides current data on drug violations, drug-using offenders in the criminal justice system and the impact of drugs on the administration of the justice system.

NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE

1600 Research Boulevard

Rockville, MD 20850

(800) 732-3277

The National Criminal Justice Reference Service, under contract with the U.S. Department of Justice, provides justice information. The Service also publishes materials on prisons, corrections, law enforcement, resources for victims, juvenile justice and AIDS among offenders.

OVERCROWDED TIMES

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